

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE; SOLID WASTE

51. ELECTRIC AND WATER PLANT

52. SEWERS

**53. EROSION CONTROL AND SEDIMENT CONTROL
MEASURES**

54. ILLICIT DISCHARGE CONTROLS

55. POST-CONSTRUCTION RUNOFF

CHAPTER 50: GARBAGE; SOLID WASTE

Section

- 50.01 Definitions
- 50.02 Collection
- 50.03 Preparation, storage, placement for collection
- 50.04 Evictions
- 50.05 Loose material
- 50.06 Prohibited disposal
- 50.07 Dumping regulations
- 50.08 Dangerous or hazardous waste
- 50.09 Collection of construction/demolition debris
- 50.10 Recycling program
- 50.11 Authority to establish rules and regulations
- 50.12 Police power measure
- 50.13 Prosecution
- 50.14 Garbage collection fee

- 50.99 Penalty

§ 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASHES. The residue of combustion of such fuels as wood, coal, coke, charcoal, and the like.

COMBUSTIBLE. All waste substances capable of burning, including garbage, paper, rags, wood, grass, leaves, brush, and the like.

COMMERCIAL. All wastes, combustible and noncombustible, arising out of or in connection with the operation of a business or industry, and all other wastes not resulting from the ordinary operations of private residences or households.

COMPOST. The substance produced through the decomposition of organic materials, including wood, paper, mulch, yard and food waste, and leaves, that is capable of being used as a soil amendment.

CONSTRUCTION and DEMOLITION WASTE. Waste building materials and rubble resulting from construction, remodeling, repair, and demolition operation on houses, buildings, pavements, and other structures.

GARBAGE. All putrescible wastes, except sewage and body wastes and recognizable industrial by-products.

NONCOMBUSTIBLE WASTE. All waste substances incapable of burning, including tin cans, and other metallic substances, bottles, glassware, earthenware, ashes, and the like.

RECYCLABLE MATERIAL. Those commodities which are recyclable and can be sold for processing and use or reuse.

REFUSE. All non-putrescible wastes, except recyclable material.

RESIDENTIAL UNIT. Private residences or households, apartments, churches, schools and municipal buildings with eight dwelling units or less on one lot of record.

RESIDENTIAL WASTE. All solid wastes, combustible and noncombustible, arising out of the ordinary operations of residential units.

RESPONSIBLE TENANT. A tenant that has entered into a valid "Agreement to Comply with Chapter 50 of the City of Frankfort's Code of Ordinances" that has been filed with the City Public Works Department.

SOLID WASTE COLLECTION OFFICER. The Public Works Director or his designee.

WASTE. All trash, garbage, offal, and other refuse and discarded matter required to be removed from private and public places, except recyclable material.

WHITE GOODS. Refrigerators, washers, dryers, ranges, freezers, and other large appliances. ('70 Code, § 6.12.010) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 7, 2009, passed 6-22-09; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 3, 2012, passed 4-23-12)

§ 50.02 COLLECTION.

(A) (1) The owner, tenant or lessee of each residential unit shall participate in the City's garbage disposal program. The city shall not collect commercial or industrial waste. The city shall collect residential waste when properly containerized and placed adjacent to a publicly maintained street in a manner and in a quantity that does not create a hazard to traffic. Due to traffic hazards, the city shall not collect waste from apartment or condominium buildings with more than eight (8) units per lot of record, and the owners of those units shall enter into a written garbage disposal contract with a properly licensed

private contractor. In the case of a private contractor, the garbage shall be placed in a container equivalent or better than the container used by the City and picked up by the private contractor on no less than a once per week basis.

(2) Exception for residences located on a private street: Notwithstanding the above provision, collection service shall continue for all residences served by the city prior to January 1, 2001, so long as the owner of any private property upon or over which city vehicles are operated in the course of the collection executes an agreement indemnifying the city, its officers, employees and agents against any liability or claim for property damage, personal injury or death sustained by any person or entity, including the property owner, occurring as a result of or during such operation of city vehicles on private property with the exception of any wanton conduct by the city which creates a substantial danger of death or serious physical injury. Provided further, that the property owner shall maintain general liability insurance in a minimum coverage amount of \$1,000,000, naming the city as additional insured.

(‘70 Code, § 6.12.020) (Am. Ord. 8, 2002, passed 2-21-02)

(B) Residential solid waste and recyclable material placed in approved City containers or bags shall be collected from each residential unit once per week following a schedule arranged by the Public Works Department. During “unlimited pickup days” scheduled by the Public Works Department, residential solid waste placed in any suitable container or garbage bag will be picked up at no additional monthly charge. The Director of Public Works, through the adoption and promulgation of rules, shall be authorized to fix and arrange the date and schedules for the collection of solid wastes and recyclable material in all parts of the city. (‘70 Code, § 6.12.030)

(C) Tree brush and yard waste shall be collected once per week along with other household garbage and trash.

(1) Tree brush. The tree brush shall be placed adjacent to the pavement in the public street or alley right-of-way alongside regular waste containers. No tree limb shall exceed 50 pounds in weight or six feet in length. Limbs shall be stacked with cut ends facing the street, not criss-crossed, and placed in piles not exceeding three feet high and ten feet long. The city shall not collect tree residue or brush as a result of a private tree contractor’s work and the property owner or occupant or the contractor shall be responsible for the removal and disposal of same in this case. (‘70 Code, § 6.12.140)

(2) Yard waste. Yard waste consisting of plant material (leaves, grass clippings, branches, brush, flowers, roots, wood waste, etc.), but excluding loose soils, sod, food waste, plastics and synthetic fibers, human or animal excrement, noxious weeds and soil contaminated with hazardous substances, shall be placed in garbage containers with a capacity of thirty-two (32) gallons or less or paper yard waste bags with a filled weight not exceeding fifty (50) pounds.

(D) Bulky items such as white goods, old furniture, and the like, shall be placed alongside other regular garbage and trash once per week for collection. No person shall place a refrigerator for disposal unless and until he has either removed the door or secured it so that children cannot open it. Carpet shall

be cut and tied into four foot sections. Bundled carpet weight shall not exceed 50 pounds. Items such as tires, used propane tanks, metal poles, and swing sets will not be collected by city personnel. ('70 Code, § 6.12.150)

(Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 4, 2013, passed 6-24-13; Am. Ord. 20, 2014, passed 10-27-14) Penalty, see § 50.99

§ 50.03 PREPARATION, STORAGE, PLACEMENT FOR COLLECTION.

(A) Garbage and household trash. No owner, tenant, or lessee of any public or private premises shall permit to accumulate upon his premises any garbage or refuse except in suitable containers. Wheeled containers with an approximate capacity of 35, 65 and 95 gallons shall be provided by the city to each dwelling unit qualifying for residential service at no initial cost. The containers shall remain the property of the city. Each eligible dwelling unit shall be assigned a serial numbered container(s) of the size requested by the owner of the unit, or, if no size request is received, of the 65 gallon size. The property owner may, in the months of January or July, exchange the trash container for a larger container(s) upon payment to the city of the \$20 fee for each trash container, and may exchange the container(s) for a smaller container(s) at no charge. The fee may be waived by the Director of Public Works on a city-wide basis. Damaged or stolen containers will be replaced upon request. Waste material which may be excepted from containerization is brush and bulky items such as old furniture, appliances, and the like. Recyclable materials shall be placed in special containers provided by the city. ('70 Code, § 6.12.040)

(B) All owners, tenants, or lessees of any public or private premises shall place garbage, waste, or recyclables to be collected in front of their premises near the street edge so that city sanitation workers may pick up and dispose of same without leaving the street or sidewalk unless, as determined by the Director of Public Works, the premises are occupied solely by one or more persons with physical limitations which prevent the persons from placing the container at the curbside or the topography of the premises prevents the placement of the container at the curbside or as provided in § 50.02(A). Otherwise, no waste shall be collected outside designated street or alley rights-of-way. Properties which do have rear yard access may be exempt from this provision upon approval by the Director of Public Works. ('70 Code, § 6.12.050)

(C) All garbage and household trash shall be drained free of liquids and placed in the city-issued container or prepaid garbage bag. The trash container shall not be filled so that the attached lid cannot be completely closed, nor shall the bags be filled such that they cannot be securely fastened shut or weigh more than 50 pounds. Garbage and household trash placed in containers other than in the city-issued container or prepaid garbage bag will not be collected except on "unlimited pickup days" scheduled pursuant to § 50.02(B). ('70 Code, § 6.12.060)

(D) Ashes shall be separated from all other types of waste, and the ashes shall be completely extinguished and placed in an airtight noncombustible container. Animal excrement must be bagged prior to placing into container. ('70 Code, § 6.12.080)

(E) The city will not collect waste from dumpsters. ('70 Code, § 6.12.090)

(F) No waste or recycling containers shall be allowed to remain exposed within a public street or any place where the sight of them would be a public nuisance for a longer time than shall be reasonably necessary for collection. The containers shall be promptly removed from the sidewalk or public right-of-way after they have been emptied. Waste and recycling containers shall be placed at the curb no sooner than the evening prior to collection and no later than 7:00 a.m. on the day of collection and removed that evening. No container shall be allowed to remain at a curbside or roadside at times other than those permitted by this chapter. ('70 Code, § 6.12.110)

(G) All city-issued containers shall be used for garbage or recycling purposes only and shall be kept clean by the owner thereof. No dead animals, maggots or petroleum products shall be permissible in the waste containers. Paint shall be solidified with sand, dirt, or kitty litter. No garbage or refuse shall be permitted to ferment or putrefy. ('70 Code, § 6.12.120) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 4, 2013, passed 6-24-13) Penalty, see § 50.99

§ 50.04 EVICTIONS.

Notwithstanding the other provisions of Chapter 50 of the City of Frankfort Code of Ordinances, where a landlord, pursuant to a proper order of eviction issued by a court of competent jurisdiction, has evicted a tenant and has set out the tenant's property on the curb pursuant to court order, the City may pick up and dispose of the set out property after it has been on the curb for not less than twenty-four (24) hours after receiving a written request from the evicting landlord, a copy of the order of eviction and payment in the amount of \$50.00. The set out property is not required to be placed in a proper waste container. (Ord. 20, 2014, passed 10-27-14)

§ 50.05 LOOSE MATERIAL.

(A) No person shall place within the street right-of-way for collection any small loose material which could be wind blown and result in littering. Items such as grass clippings, leaves, small branches, paper, and the like, shall be properly containerized or placed in paper yard waste bags.

(B) Exception: Leaves may be raked to the roadside during the city's leaf collection program. ('70 Code, § 6.12.160) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11) Penalty, see § 50.99

§ 50.06 PROHIBITED DISPOSAL.

(A) (1) No person shall throw, place or deposit waste on any street or other public property except in proper waste containers with the lid closed or tied.

(2) No person shall turn over or upset the contents of any waste container on any street or other public property.

(3) When waste has been set out in containers on public property for collection no person shall remove the waste from the containers.

(4) It shall be unlawful for any person to place any garbage or trash upon the property of another.

('70 Code, § 6.12.170) (Am. Ord. 16, 2001, passed 10-11-01)

(B) The disposal of any garbage or refuse by any individual, householder or establishment in any place, public or private, within the city limits other than at a licensed and permitted private landfill or transfer station is prohibited. ('70 Code, § 6.12.180)

(Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 4, 2013, passed 6-24-13) Penalty, see § 50.99

§ 50.07 DUMPING REGULATIONS.

No person shall dump combustible waste on any public or private property within the city. No person shall dump dirt or other noncombustible material of any kind on any public or private property within the city without the written permission of the City Engineer.

('70 Code, § 6.12.190) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11)

Penalty, see § 50.99

§ 50.08 DANGEROUS OR HAZARDOUS WASTE.

Needles and/or syringes will not be collected by city personnel unless they are disposed of in an approved sharps container (which can be purchased at drug stores). The sharps container can then be disposed of in waste containers and collected by the city. Other dangerous or hazardous waste shall not be placed for collection.

(Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11) Penalty, see § 50.99

§ 50.09 COLLECTION OF CONSTRUCTION/DEMOLITION DEBRIS.

Construction debris not placed in a suitable container will require the use of a dumpster that is provided by and collected by a private collector. A permit issued by the Public Works Director will be required if the dumpster is to be located within public right-of-way.

(Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11) Penalty, see § 50.99

§ 50.10 RECYCLING PROGRAM.

(A) Participants.

(1) The city shall provide curbside recycling opportunity for all residential units, with collection once per week.

(2) The city may provide curbside recycling opportunity for all privately owned commercial units located within the City of Frankfort Renaissance District, which is bounded on the south side by Second Street between Bridge Street and Capital Avenue, on the east side by High Street between Mero Street and the Kentucky River, on the north side by Mero Street between High Street and the Kentucky River and on the west side by the Kentucky River, with collection once per week.

(B) Containers. The city shall provide each residential unit which participates in the recycling program with an approved container. The container shall remain property of the city. The container shall be used only for the purpose of recycling, and are not to be filled so that the attached lid cannot be completely closed. Plastic bags or other materials are not to be used for sorting recycling materials. Approved recycling containers shall be purchased from the city and used by the commercial building in order for a commercial building to participate in the recycling program. A maximum of two approved recycling containers shall be allowed for each commercial building, unless otherwise approved by the Director of Public Works based on the amount of recyclable material to be collected.

(C) Collection. Recyclable material shall be collected once per week on a schedule set up by the Director of Public Works.

(D) Pilfering. No person shall remove any material from recycling containers set out for collection by the city. All recyclable material becomes property of the city at the time it is set out to the street side for collection.

(‘70 Code, § 6.12.230) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 24, 2008, passed 9-22-08; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 3, 2012, passed 4-23-12; Am. Ord. 4, 2013, passed 6-24-13) Penalty, see § 50.99

§ 50.11 AUTHORITY TO ESTABLISH RULES AND REGULATIONS.

The Director of Public Works, with the approval of the Board of Commissioners, shall be authorized to prepare and publish rules and regulations for the effective administration and enforcement of the provisions of this chapter. Any rules so published shall have the force of law and a violation thereof shall be punishable in the same manner as a violation of this chapter.

(‘70 Code, § 6.12.240) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11)

§ 50.12 POLICE POWER MEASURE.

This chapter is hereby declared to be an exercise of the city's police power for the preservation of the public peace, health, and safety. The city shall bear no liability for the improper usage or placement of the waste containers.

('70 Code, § 6.12.260) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11)

§ 50.13 PROSECUTION.

(A) Whenever a condition is identified that is in violation of this chapter, the Director of Public Works or his designee may issue a Notice of Violation giving the property owner or the property owner's agent five (5) days to remedy the situation. Notices shall be issued by posting the notice on the container for the residence or by sending the notice by first class mail to the owner. If, after five (5) days of the issuance of notice, the violation has not been brought into compliance, the city may send employees or other workers onto the property to effect compliance. The property owner shall be liable for the reasonable value of labor and materials in remedying the situation as determined by the Director of Public Works (\$25 per event). If payment is not received within forty-five (45) days after invoice is issued, a lien against the property for the invoice amount shall be filed in the Franklin County Clerk's office bearing interest at 18% per annum thereafter until paid, all pursuant to KRS 381.770.

(B) Responsible Tenant: In the case of a Responsible Tenant, whenever a condition is identified that is in violation of this chapter, excluding payment of the garbage collection fee set forth in § 50.14, the Director of Public Works or his designee may issue a Notice of Violation giving the Responsible Tenant five (5) days to remedy the situation. Notices shall be issued by posting the notice on the container for the residence or by sending the notice by first class mail to the Responsible Tenant. If, after five (5) days of the issuance of notice, the violation has not been brought into compliance, the city may send employees or other workers onto the property to effect compliance. The Responsible Tenant shall be liable for the reasonable value of labor and materials in remedying the situation as determined by the Director of Public Works (\$25 per event). If payment is not received within forty-five (45) days after invoice is issued, the City may take action as set forth in § 50.13(C). A Property Owner shall not be liable for violations caused by a Responsible Tenant.

(C) Citation to the Franklin District Court or the Frankfort Nuisance Code Board may be issued by a Solid Waste Collection Officer. In the event a citation issued for violation of this chapter is returnable before the Frankfort Nuisance Code Hearing Board, Sections 106 and 107 of the Frankfort Nuisance Code shall not apply.

(D) In addition to the other remedies set forth in this Chapter, where the owner, tenant or lessee of a residential unit fails to pay to the City the applicable garbage collection fee set forth in § 50.14 within thirty (30) days of the issuance of the invoice, the City may 1) stop collection of garbage and recyclable material at all of the owner's, tenant's or lessee's residential units located within the City, and may collect the City issued trash container and the recycling container issued to all of the owner's, tenant's

or lessee's residential units, and 2) file a lien against all of the owner's, tenant's or lessee's residential units in the amount due the City for garbage collection and file suit to enforce the amount of the lien, and collect interest in the amount of eighteen percent (18%) per annum and reasonable attorneys fees. Thereafter, the City shall only issue a trash container and a recycling container to the owner's, tenant's or lessee's residential units upon payment in full of the amount due the City for garbage services or an Agreement to Pay Delinquent Garbage Fee has been signed by the owner, tenant or lessee of a residential unit, approved by the Finance Director and the payments on said agreement are current plus an administrative fee of \$50.00 for each residential unit.

(Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 3, 2012, passed 4-23-12; Am. Ord. 20, 2014, passed 10-27-14)

§ 50.14 GARBAGE COLLECTION FEE.

(A) That, beginning February 1, 2011, the owner of each residence or building from which residential waste is collected by the city pursuant to § 50.02 of the City of Frankfort Code of Ordinances shall pay a collection fee as set forth below:

(1) A fee of \$4 per month shall be paid for use of each wheeled container having an approximate capacity of 65 gallons;

(2) A fee of \$12 per month shall be paid for use of each wheeled container having an approximate capacity of 95 gallons;

(3) Garbage bags that will be picked up by the city, with the exception of garbage bags collected on "unlimited pickup days", may be purchased from the city or other approved vendor for \$6 for 6 bags; and,

(4) The owners of residences or buildings having more than one apartment or living unit shall pay the fee set forth above for each apartment or living unit.

(B) The garbage collection fee of \$5.00 per month set forth in this section shall not apply to the time period beginning January 1, 2011 and ending on June 30, 2011. This section is to be applied retroactively so that individuals or entities having prepaid the garbage fee for this time period may submit a written request for a refund or a written request that the prepaid amount be applied to garbage fees due and owing, now or in the future.

(Ord. 7, 2009, passed 6-22-09; Am. Ord. 7, 2011, passed 7-11-11; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 4, 2013, passed 6-24-13)

§ 50.99 PENALTY.

(A) Violation of § 50.08 of this chapter shall constitute a criminal offense for which a citation may issue returnable to Franklin District Court with a fine of not less than \$50 nor more than \$500, or imprisonment for a term not to exceed 30 days, or both the fine and imprisonment, at the discretion of the Court, assessed for each offense.

(B) Violation of any other provisions of this chapter may be considered a civil offense for which a citation may issue returnable to the Frankfort Nuisance Code Hearing Board with a civil penalty of not less than \$50 nor more than \$500 assessed for each violation; provided that each day the violation shall exist shall constitute a separate civil offense; and provided further that the citation shall not be issued without two prior written warnings having been received by the offender.

(C) The theft or intentional damage of the city-issued containers is prohibited.
(‘70 Code, § 6.12.250) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 20, 2014, passed 10-27-14)

CHAPTER 51: ELECTRIC AND WATER PLANT

Section

- 51.01 Operation of system; state law adoption
- 51.02 Bonds
- 51.03 Installation of bulbs in traffic-control devices

Statutory reference:

Furnishing of utility services, see KRS 96.160

§ 51.01 OPERATION OF SYSTEM; STATE LAW ADOPTION.

(A) It is hereby declared to be the desire and intention of the city, to accept and operate its combined electric and water system under the provisions of Chapter 212 of the Acts of 1946, KRS 96.171 to 96.188, and the city does hereby accept and agree to all of the provisions of Chapter 212 of the Acts of 1946, KRS 96.171 to 96.188, and to all of the provisions as they may be from time to time amended by the Acts of the General Assembly of the commonwealth.

(B) The Mayor is hereby authorized to appoint, subject to approval by the Board of Commissioners, the Electric and Water Plant Board of the city, in the form and manner provided by Chapter 212 of the Acts of 1946, KRS 96.171 to 96.188.
(‘70 Code, § 13.08.010)

§ 51.02 BONDS.

The bond to be executed by each of the members of the Electric and Water Plant Board of the city is fixed at the sum of \$5,000.
(‘70 Code, § 13.08.020)

§ 51.03 INSTALLATION OF BULBS IN TRAFFIC-CONTROL DEVICES.

The Electric and Water Plant Board hereby is requested and authorized to undertake at its own expense the installation of light bulbs as needed in all traffic signal lights of the city.
(‘70 Code, § 13.08.030)

CHAPTER 52: SEWERS

Section

Sewer Use Regulations

- 52.01 Service to areas outside city limits
- 52.02 Connections; requirements and charges
- 52.03 Privies and septic tanks prohibited where sewer line exists
- 52.04 Sewer service charges based on water use
- 52.05 Charges where 20% or more water does not enter sewer
- 52.06 Discontinuing water service
- 52.07 [Reserved]
- 52.08 Agreement with Electrical Water Plant Board for billing, collecting and accounting of sewer charges
- 52.09 Connecting storm and sanitary sewers
- 52.10 Location of sewers on L&N Railroad property
- 52.11 Width of sewer easements
- 52.12 Sewer line extensions

Sanitary Sewer Mini-Projects

- 52.25 City participation
- 52.26 Contract with property owners
- 52.27 Approval of plans; inspection of construction
- 52.28 Notice; indemnification of city; easements
- 52.29 Assessment of costs
- 52.30 Contract for construction
- 52.31 Privilege fees; payment
- 52.32 Connection required; failure
- 52.33 Connection fees

Industrial Wastewater Pretreatment Program

- 52.45 Purpose and policy
- 52.46 Definitions
- 52.47 Abbreviations
- 52.48 Discharges; special requirements

- 52.49 Fees
- 52.50 Administration
- 52.51 Powers and authority of inspectors
- 52.52 Enforcement
- 52.53 Violations

Sewer Capital Recovery Program

- 52.60 Definitions
- 52.61 Cost Recovery Program
- 52.62 Application fee

- 52.99 Penalty

Cross-reference:

Sewer Department, see §§ 36.175 through 36.183

SEWER USE REGULATIONS

§ 52.01 SERVICE TO AREAS OUTSIDE CITY LIMITS.

The city will accept sanitary sewer flows from any area within the 201 planning area without regard to any condition other than user charges developed from time to time on an equitable basis, as long as pipeline, pumping and treatment capacity exists.

(‘70 Code, § 13.04.010) (Ord. 1-98, 1998, passed 1-12-98; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.02 CONNECTIONS; REQUIREMENTS AND CHARGES.

(A) *Connection required - stormwater.* All owners and occupants of houses, apartments, hotels, motels, trailer camps, manufacturing or commercial establishments or any other building of any kind situated upon lots abutting upon any street, alley or easement, in which there is hereafter installed a sewer line which is a part of any future extensions or improvements to the sewer system of the city, shall within 90 days from the date the sewer line is installed and placed in operation connect therewith all sanitary sewerage drain pipes of the houses, apartments, hotels, motels, trailer camps, manufacturing or commercial establishments or other buildings, conveying the sanitary sewage therefrom into the sewer line, the connections to be made under the regulations as the Board of Commissioners may establish by ordinance, and failure to do so is hereby declared to be unlawful and to constitute a nuisance. No storm water drain shall be connected with any separate sanitary sewer hereafter constructed as or made a part

of the separate sanitary sewage system of the city, nor shall any storm water be otherwise introduced into any separate sanitary sewer. ('70 Code, § 13.04.020)

(B) *Plans for sewer connections.* All architects, contractors, builders or other persons who shall hereafter erect new buildings for dwelling, manufacturing or commercial purposes on a lot or parcel ground abutting on a street, alley or easement in which there is hereafter installed and maintained any additional sewer line or in which a sewer line exists which served a previously existing building, which is proposed to be used to serve the new or renovated building or buildings, shall before erecting any building exhibit to the city satisfactory evidence that a means has been or will be provided for connecting the sanitary sewerage drain from the building with the municipal sewer system. ('70 Code, § 13.04.030) (Ord. 21-85, 1985, passed 6-24-85)

(C) *Connection charges.*

(1) Within the corporate limits and outside the city there are hereby imposed capacity fees, which include the cleanout vault fee, as set forth in the following schedule:

| <i>Water Meter Size</i> | <i>Capacity Factor</i> | <i>Capacity Fees</i> |
|-------------------------|------------------------|----------------------|
| Five-eighths-inch | 1 | \$2,192 |
| Three-quarters-inch | 1.50 | 3,013 |
| One-inch | 2.50 | 4,655 |
| One and one-half-inch | 5 | 8,760 |
| Two-inch | 8 | 13,686 |
| Three-inch turbine | 22.50 | 37,495 |
| Four-inch turbine | 50 | 82,650 |
| Six-inch turbine | 90 | 148,330 |
| Eight-inch turbine | 175 | 287,900 |
| Three-inch compound | 16 | 26,822 |
| Four-inch compound | 25 | 41,600 |
| Six-inch compound | 80 | 131,910 |
| Three-inch combination | 32.50 | 53,915 |
| Four-inch combination | 57.50 | 94,965 |

(a) A capacity fee shall be imposed for each connection with the municipal sewer system of the city under the provisions codified herein and shall be assessed based upon the total number of water meters installed for the lot.

(b) At the time that the capacity fee is paid, the property owner, or his or her representative, shall pay a separate cleanout vault installation fee, which is included in the capacity fee as shown above. The property owner, or his or her representative, shall have marked the final grade at the location of cleanout vault. The method of marking shall be a stake driven in the ground with a horizontal line indicating the "finish grade." When notified of the marking of the "finish grade", the Sewer Department will then install the cleanout vault.

(c) All capacity fees shall be payable in full prior to connection to the municipal sewer system, except in cases of extreme financial hardship, where the said cost may be prorated for a period not to exceed two years. Extreme financial hardship exceptions apply to single-family residential dwellings only. Owners making application for the said prorated capacity fee under the hardship provision must submit a request in writing to the city. The city may require any information it deems pertinent to the request. If the request is approved, the capacity fee shall be paid in equal monthly payments, over a period not to exceed two years. At the time an application is received from a homeowner, an application fee of \$150 shall be paid to the Sewer Department to cover the cost of the preparation of the promissory note, the mortgage document, and the mortgage release.

(d) This provision shall be applicable for individual home owners, not contractors, builders or developers. Responsibility for the payments shall run with the land and shall be the responsibility of any subsequent owner.

(2) All ordinances or parts of ordinances in conflict are hereby repealed to the extent of any conflict. These provisions went into effect as to sewer service rendered or billed on or after December 1, 2002, except that those users who previously contracted with the city with respect to connection charges pay those charges in accordance with the contracts.

('70 Code, § 13.04.040) (Ord. 14-89, 1989, passed 5-8-89; Am. Ord. 26, 2002, passed 10-24-02; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 24, 2007, passed 8-27-07; Am. Ord. 12, 2009, passed 8-24-09) Penalty, see § 52.99

§ 52.03 PRIVIES AND SEPTIC TANKS PROHIBITED WHERE SEWER LINE EXISTS.

(A) It is unlawful for any person to construct or maintain a privy, vault, cesspool, septic tank or similar contrivance for the reception of sewerage when the premises abuts upon a public sewer line in any street, alley or other easement, and all privies or toilets shall be removed by the owners and the occupants of the property abutting on any street, alley or other easement or private property on which runs a sewer line and to which the drainage from such premises may be connected.

(B) All privies or surface toilets, or other means of casting or depositing sewerage into a container above or below the surface of the ground, or upon or into the soil or into any running or percolating stream of water or into any cistern or well whereby the soil is contaminated with such sewerage, are hereby declared to be unlawful and to constitute a nuisance.

(‘70 Code, § 13.04.050) (Ord. 30, 2005, passed 12-15-05) Penalty, see § 52.99

§ 52.04 SEWER SERVICE CHARGES BASED ON WATER USE.

(A) (1) There is hereby established a schedule of rates and charges for the use of and services rendered by the municipal sewer system of the city, which shall be paid by the owner or occupant of each and every lot, parcel of land, building or premises throughout the city discharging sewage, water or other liquid wastes connected with the municipal sewer system. The rates and charges shall be computed and billed monthly and shall be based insofar as possible upon the quantity of water used or supplied each lot, parcel of land, building or premises, as determined by readings of the water meters supplying water thereto, plus any collection fee charged by the collecting water district. The per month charges shall be \$9.33 after July 1, 2014, per 1,000 gallons of water usage, plus any collection fee charged by the collecting water district, with a minimum monthly charge for 2,000 gallons of water usage. On January 1, 2016, a rate increase of two and one-half percent (2.5%) in the per month charge shall be enacted. On January 1, 2017, a rate increase of two and one-half percent (2.5%) in the per month charge shall be enacted. On January 1, 2018, a rate increase of two and one-half percent (2.5%) in the per month charge shall be enacted. On January 1, 2019, a rate increase of two and one-half percent (2.5%) in the per month charge shall be enacted. On January 1, 2020, a rate increase of two and one-half percent (2.5%) in the per month charge shall be enacted. Beginning July 1, 2007 charges shall increase annually at a rate equal to the Consumer Price Index (CPI) for the prior calendar year as published on December 31 of that year with a maximum of 9.99%; increases of 10% or greater shall require the approval of the Board of Commissioners. In addition, all industrial users shall pay an industrial cost recovery surcharge of \$.20 per 1,000 gallons of water usage for standard strength industrial process wastewater discharged to city sewers. Separate meters shall be maintained at the expense of the industrial user to separately meter sanitary sewage and industrial process wastewater. All sewage from any industrial source, excepting only that which is strictly sanitary sewage is declared to be industrial process wastewater.

(2) In the event a lot, parcel of land, building or premises discharging sewage, water or other liquid wastes, as aforesaid, uses water supplied on other than a metered basis from either a private or a public water supply, then in each case the owner or occupant may be required to cause a water meter or other measuring device to be installed, acceptable to the city, and the quantity of water used, as measured by such meter, shall determine the sewer rate, rental or charge and, pending installation of the meter, rates, rentals or charges shall be based upon an estimated quantity of water used provided that pending such installation of water meters in private dwellings the sewer rate, rental or charge shall be based on the following usage rates:

- (a) One- or two-bedroom house: 2,000 gallons per month.

(b) Three-, four-, five- or six-bedroom house: 4,000 gallons per month.

(c) More than six bedrooms: 6,000 gallons per month.

(3) The rates and charges for sewer services as established by this section, which are based upon water meter readings, shall carry proportionately the same discounts for prompt payment and proportionately the same added charges for past due payments as are presently fixed for water service billings. All charges for sewer services not based on water meter readings shall be due when notice of the amount of the charges is mailed with a penalty of 10% of the amount thereof if not paid within ten days from the mailing, and any bill not paid within 20 days from such mailing shall be classified as delinquent.

(4) The city shall review not less often than annually the wastewater contribution of users, the total cost of operation, maintenance and replacement of the wastewater works, debt service obligation and user charge rates. Based on the review, the city shall revise, when necessary, the schedule of user charge rates to accomplish the following:

(a) Maintain an equitable distribution of operation and maintenance and replacement costs among users of the treatment system; and

(b) Generate sufficient revenues to offset costs associated with the proper operation and maintenance of the wastewater system and to meet debt service requirements.

(5) Excessive strength and toxicity surcharges shall be reviewed at the time of and in conjunction with the review of user charges. Surcharge rates shall be revised where necessary to reflect current treatment and monitoring costs.

(6) Each user shall be notified, at least annually, in conjunction with a regular bill of the rate and that portion of the total charge which is attributable to operation and maintenance and replacement of the wastewater system.

(7) Refunds may be made for sewer charges in hardship cases, in accordance with the city's sewer adjustment policy. A customer's bill may be credited based upon the Electric and Water Plant Board's determination of water usage.

(8) The city will allow the use of a separate "agricultural" water meter, if approved by the Electric and Water Plant Board of the City of Frankfort, and will not assess a sewer use charge for the water used by the "agricultural" service.

('70 Code, § 13.04.060) (Ord. 16-76, 1976, passed 5-24-76; Am. Ord. 14-89, 1989, passed 5-8-89; Am. Ord. 1-92, 1992, passed 4-27-92; Am. Ord. 1-98, 1998, passed 1-12-98; Am. Ord. 25, 2002, passed 10-24-02; Am. Ord. 25, 2007, passed 8-27-07; Am. Ord. 12, 2009, passed 8-24-09; Am. Ord. 26, 2009, passed 12-22-09; Am. Ord. 20, 2011, passed 12-19-11)

(B) *Special charge or treatment for unusual waste substances.*

(1) In the event the sewage, water or other liquid waste being discharged into the municipal sewer system from any buildings or premises contains unduly high concentrates or any substances which add to the operating costs of the municipal sewer system, then special rates, rentals or charges will be charged and collected as to the building or premises, or the owner or other interested party may be required to specially treat the sewage, water or other liquid wastes before it is discharged into the municipal sewer system.

(2) If an industrial user discharges excessive or high strength waste to the public sewer during any month, the user shall be assessed a surcharge for excessive strength as follows:

| <i>Parameters</i> | <i>Concentration Limit</i> | <i>Surcharge in Excess of Limit</i> |
|-------------------|----------------------------|-------------------------------------|
| BOD | 200 mg/l | \$.25/lb. BOD |
| TSS | 200 mg/l | \$.20/lb. TSS |

(3) The excessive strength surcharge will continue until the industrial user's next monthly average laboratory analysis shows a standard strength waste below the allowable concentration limits. ('70 Code, § 13.04.080) (Ord. 1-92, 1992, passed 4-27-92; Am. Ord. 12, 2009, passed 8-24-09)

(C) Special charges or classification for peculiar or unusual uses.

(1) Whenever it is determined by the Board of Commissioners to be necessary to classify any commercial institutions or industries or septic haulers, by reason of the unusual purpose for which water is used, or the character of the sewage, water or other liquid wastes discharged therefrom, or whenever the established schedule of rates and charges for any reason is not applicable, then special rates, rentals or other charges will be established by the Board of Commissioners.

(2) The Board of Commissioners hereby established the following special charges: A special charge of \$15 per 500 gallons shall be assessed to septic haulers for domestic sewage pumped from septic tanks and \$25 per 500 gallons for grease from commercial/industrial establishments. Billing of septic haulers shall be based on actual capacity of the tanker, with a minimum charge for 500 gallons. ('70 Code, § 13.04.090) (Ord. 1-92, 1992, passed 4-27-92; Am. Ord. 24, 2002, passed 10-24-02; Am. Ord. 12, 2009, passed 8-24-09; Am. Ord. 20, 2011, passed 12-19-11)

(D) *Collection charges by Electric and Water Plant Board.*

(1) It is contemplated that the rates, rentals and charges for the use of and services rendered by the municipal sewer system, based on water meter readings, will be billed and collected by the Electric and Water Plant Board of the city and the full amount of the proceeds will be paid over to the City Finance Department at least once in each month with a full accounting of all sums collected. All sums thus received by the city shall constitute income and revenues of the municipal sewer system to be set aside in a separate and special fund designated as the "Sewer Revenue Fund" pursuant to the provisions of the ordinance authorizing the issuance of sewer revenue bonds provided that if, and to whatever extent, the Electric and Water Plant Board at any time fails or refuses to bill, collect and account for the income and revenues the city shall by other means and in any other manner as may be lawful, establish, impose, collect and account for income and revenues from the municipal sewer system in conformity with the ordinance pursuant to which sewer revenue bonds or any other obligations for account of the system are at the time outstanding. The records of the Electric and Water Plant Board with respect to charging, billing, collecting and accounting for sewer service charges shall be audited at least each 12 months by an independent public accountant and a report thereof filed with the City Clerk. The cost of the audits shall be classified and paid at as an expense of operation and maintenance of the municipal sewer system.

('70 Code, § 13.04.100) (Am. Ord. 12, 2009, passed 8-24-09)

(E) *Unauthorized connections with sewer.*

(1) No person shall install any "saddle" or "Y branch" onto, nor by any method break into, any outfall line, trunk line or collector line of, or that ultimately discharges into, the municipal sewer system of the city.

(2) This section does not apply to bona fide agents or employees of the municipal sewer system of the city acting in the course of their assigned duties.

(3) No sanitary sewer inlet which is not at least 12 inches above the top of the lowest of the two adjacent public sanitary sewer manholes shall be connected by a gravity drainage to the building sanitary sewer. Any such connection made after the effective date of this section shall be unlawful and the city shall not be liable for sewage backups through such unlawful connections.

(F) There are hereby established fees for sewer extension design review, written easement review, video inspection, re-inspection and re-testing of new sewer construction. All fees shall be paid in advance.

| <i>Reviews</i> | <i>Fee</i> |
|--|--|
| Sewer extension design review | \$250 |
| Written easement review | \$100 |
| Final inspections | First final inspection is free with followup |
| | Each additional final inspection is \$100 after follow up |
| Video inspection | First video inspection is free |
| | Second video inspection is \$2.00 per foot |
| | Third and subsequent video inspection are \$2.50 per foot |
| Witnessing testing Pipe tests are based upon manhole to manhole segments of pipe tested | First manhole test is free |
| | First manhole retest - \$35 each |
| | Subsequent manhole retest - \$50 each |
| | First pipe mandrel test is free |
| | First pipe mandrel retest - \$.50 per foot of main |
| | Subsequent pipe mandrel main retest - \$1.00 per foot of main |
| | First pipe pressure test is free |
| | First pipe pressure retest - \$.50 per foot of main |
| | Subsequent pipe pressure main retest - \$1.00 per foot of main |
| | First pump station test is free |
| | First pump station retest - \$150 each |
| | Subsequent pump station retest \$250 each |
| Tap inspection | First tap inspection is free |
| | Re-inspection \$35 each |

('70 Code, § 13.04.180) (Ord. 5-96, 1996, passed 3-18-96; Am. Ord. 1, 2004, passed 1-15-04; Am. Ord. 12, 2005, passed 6-27-05; Am. Ord. 13, 2005, passed 6-27-05; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09; Am. Ord. 20, 2011, passed 12-19-11; Am. Ord. 12, 2013, passed 11-25-13; Am. Ord. 10, 2014, passed 6-23-14; Am. Ord. 23, 2014, passed 12-22-14) Penalty, see § 52.99

§ 52.05 CHARGES WHERE 20% OR MORE WATER DOES NOT ENTER SEWER.

Where more than 20% of the water used by the owner or occupant of any building or premises during the year does not flow into the sanitary or combined sewer, the percentage in excess of 20% shall

be excluded from the calculation of the sewer service rates and charges provided herein. The city may determine in such manner as may be found practicable the amount of water entering the sewers and the sewer rate, rental or charge shall be based thereon, or may require or permit the installation of additional meters or measuring devices in a manner as to determine the quantity of water or sewage actually entering the municipal sewer system, in which case the sewer rate, rental or charge shall be based thereon.

(‘70 Code, § 13.04.070) (Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

§ 52.06 DISCONTINUING WATER SERVICE.

It is the declared intention that bills for water and sewer services and connection charges shall be billed, collected and enforced together, so that when any bill has remained unpaid and becomes delinquent or any premises have failed for 90 days to connect to the sewer system, the water service to the delinquent premises can be and will be discontinued and will not be reinstated until the entire bill for water and sewer service and sewer connection charges is paid in full, or the premises have been connected to the sewer system as the case may be.

(‘70 Code, § 13.04.110) (Ord. 30, 2005, passed 12-15-05)

§ 52.07 [RESERVED].**§ 52.08 AGREEMENT WITH ELECTRICAL WATER PLANT BOARD FOR BILLING, COLLECTING AND ACCOUNTING OF SEWER CHARGES.**

(A) The agreement between the city and the Electric and Water Plant Board of the city, providing for the billing, collecting and accounting by the Electric and Water Plant Board of all charges made by the city for services rendered by and the facilities of the municipal sewer system is in all respects authorized, approved and confirmed. Agreements with additional water districts may be authorized as required to bill, collect and account for sewer service provided outside the Electric and Water Plant Board boundaries. The Electric and Water Plant Board shall be entitled to collect a deposit fee from sewer customers to ensure payment of charges for sewer service.

(B) The Mayor and City Clerk are hereby authorized, empowered and directed to execute the agreement for and on behalf of the city and to cause the corporate seal of the city to be affixed thereto.

(‘70 Code, § 13.04.140) (Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

§ 52.09 CONNECTING STORM AND SANITARY SEWERS.

(A) Where the attachment of storm or surface water sewers to a sanitary sewer is prohibited by contract or law, the person, firm or corporation connecting the surface water sewer with a sanitary sewer of the city shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined.

(B) Any plumber or other person who shall connect a storm or surface water sewer to a sanitary sewer of the city shall also be deemed guilty of a misdemeanor and, upon conviction, shall be fined.

(‘70 Code, § 13.04.150) (Ord. 30, 2005, passed 12-15-05) Penalty, see § 52.99

§ 52.10 LOCATION OF SEWERS ON L&N RAILROAD PROPERTY.

The city, acting by and through its agency, municipal sewer board of the city, does resolve to enter into the license agreements between the Louisville and Nashville Railroad Company and the city, dated April 17, 1956, June 20, 1956, and April 25, 1957, copies of which are entered in the contract book, with respect to the location of the sewers designated therein upon the terms and conditions therein stated upon the property of the railroad company.

(‘70 Code, § 13.04.160) (Ord. 30, 2005, passed 12-15-05)

§ 52.11 WIDTH OF SEWER EASEMENTS.

The width of the sewer easements to be granted to the city shall be set at least seven and one-half (7½) feet on either side of the centerline of the easement.
(‘70 Code, § 13.04.170) (Ord. 30, 2005, passed 12-15-05)

§ 52.12 SEWER LINE EXTENSIONS.

Upon application for extension to any sewer line previously accepted for maintenance by the city, the Sewer Department may require the applicant to oversize proposed sewer line, pump station and force main capacity above the standard otherwise required by law or regulations. When the oversizing is required, the city shall bear the differential cost of the oversized pipe, pump and wet well materials if oversizing were not so required. Any obligation of the city for the cost contribution shall be determined in accordance with bidding procedures required by law.
(Ord. 7, 2000, passed 2-28-00; Am. Ord. 30, 2005, passed 12-15-05)

SANITARY SEWER MINI-PROJECTS**§ 52.25 CITY PARTICIPATION.**

(A) The city, by and through its Board of Commissioners, may encourage, assist and participate financially in “sanitary sewer mini-projects,” whenever it finds that a built-up area sewer by individual septic tanks has become a health hazard.

(B) For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BUILT-UP AREA. Properties previously developed for residential, business or commercial purposes and using septic tanks for sewage treatment. ***BUILDABLE VACANT LOTS*** shall be included in this definition.

(‘70 Code, § 13.12.010) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.26 CONTRACT WITH PROPERTY OWNERS.

(A) The city may contract with any duly incorporated nonprofit corporation organized by property owners proposing a mini-project to be financed by the owners of properties to be benefitted and the projects are hereby recognized as and declared to be “public projects.” (‘70 Code, § 13.12.020)

(B) No mini-project will be considered until and unless at least 80% of the owners of individual properties to be benefitted have agreed, in writing, to participate in the private financing of the project. For purposes of computing this percentage, one property shall be represented by one owner, regardless of the actual number of owners thereof. ('70 Code, § 13.12.030)
(Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.27 APPROVAL OF PLANS; INSPECTION OF CONSTRUCTION.

All plans must be approved by the city or its designee prior to the commencement of construction. Construction shall be inspected as it progresses and approved before acceptance as a part of the city's sewage system.
(‘70 Code, § 13.12.040) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.28 NOTICE; INDEMNIFICATION OF CITY; EASEMENTS.

The Board of Commissioners, prior to entering into any construction contract, will cause the city to:

(A) Provide written notice, by certified mail, to all owners of property to be ultimately benefitted and who have not agreed in writing to participate in the project at least 14 days in advance of a work session at which privilege fees are to be discussed or adopted. The written notice shall provide a brief description of the proposed project, the share of costs to be borne by each property, and the time and place of the work session at which privilege fees are to be discussed.

(B) The association may be required to indemnify and hold the city harmless from any liability arising out of the construction of the project, including costs of construction not directly contracted for by the city, and any claims for damages by reason of personal injury or property damage. The city may require the entity to provide liability insurance in coverages approved by the city.

(C) The association will provide executed easements from property owners dedicating necessary easements or rights-of-way to the city in perpetuity.
(‘70 Code, § 13.12.050) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.29 ASSESSMENT OF COSTS.

The shared costs for this construction of sewer facilities shall be based upon all costs of construction, including engineering costs. The costs shall be assessed against each benefitted property on a fair and equitable basis to be approved by the city.
(‘70 Code, § 13.12.060) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.30 CONTRACT FOR CONSTRUCTION.

In order to promote the general health and welfare, the city may contract, in the manner provided by law, individually, or in conjunction with the entity sponsoring the public project, for construction of portions of the project not funded by voluntary participants in the project.
(‘70 Code, § 13.12.070) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.31 PRIVILEGE FEE; PAYMENT.

(A) At any time following the letting of a construction contract, the city may, by and through its Board of Commissioners, by ordinance, provide for a privilege fee to be charged the owners of benefitted properties, their heirs, successors and assigns, who have not theretofore voluntarily participated in the project. The privilege fee shall be based upon a fair and equitable apportionment of all costs of construction, including engineering costs, incurred by the city in sewerage the properties. This subchapter may provide for the payment of a reasonable rate of interest by nonparticipants on their portion of the beginning with the letting of the construction contract. A notice containing a statement of the amount of each privilege fee, the method of payment thereof, the name(s) of current owners of the properties and a brief description of the benefitted properties shall be published in at least one edition of a newspaper of general circulation in Franklin County, Kentucky, at least 14 days prior to any deadline for the payment thereof. The notice shall likewise be recorded in the Office of the Franklin County Court Clerk. (‘70 Code, § 13.12.080)

(B) Privilege fees shall be payable by the owners of benefitted properties to the city, in full, together with interest, on the date of connection to the system, which shall not be later than 90 days after the system is placed into service as a part of the municipal sewer system, in accordance with existing law. (‘70 Code, § 13.12.090) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.32 CONNECTION REQUIRED; FAILURE.

Failure to connect to the sewer line, when available, as required by this subchapter and §§ 52.01 through 52.11 is hereby declared to be unlawful and to constitute a public nuisance, and any owner of property found guilty of violating this subchapter shall be fined. The same shall be deemed to be a continuing violation and each day a violation is allowed to exist shall constitute a separate offense. (‘70 Code, § 13.12.100) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.33 CONNECTION FEES.

(A) The Sewer Department is hereby authorized to enter into an agreement with any person, firm, association or corporation constructing the approved sewer lines with private funds, providing that the

city may collect reasonable and fair sewer connection fees, agreed upon in advance, from those residents, property owners or occupants who did not originally contribute to the cost of construction a sum sufficient to cover pro-rata cost of the construction contribution to the benefitted properties in addition to the regular sewer connection charge.

(B) The agreed upon pro-rata cost may, by agreement with the Sewer Department, be reimbursed to the person, firm, association or corporation which accomplished the construction.
(‘70 Code, § 13.12.010) (Ord. 23-87, 1987, passed 8-10-87; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 30, 2005, passed 12-15-05)

INDUSTRIAL WASTEWATER PRETREATMENT PROGRAM

§ 52.45 PURPOSE AND POLICY.

(A) This subchapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the general pretreatment regulations, Title 40 C.F.R. Part 403.

(B) The objectives of this subchapter are:

(1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;

(4) To provide for equitable distribution of the cost of the municipal wastewater system;

(5) Prohibit construction of new combined sewers and introduction of inflow sources to the sanitary system;

(6) To require that new construction tributary to the combined sewer system be designed to minimize or delay inflow contribution to the combined sewer system; and

(7) Provide that any new building domestic waste connection shall be distinct from the building inflow connection to facilitate disconnection from a combined sewer if a storm sewer becomes available.

(C) This subchapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users; authorizes monitoring and enforcement activities; assumes that existing customer's capacity will not be pre-empted; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(D) (1) This subchapter shall apply to the city and to persons and corporations outside the city who are, by contract or agreement with the city, users of the city sewer system and treatment plant operated by the Sewer Department which shall administer, implement and enforce the provisions of this subchapter.

(2) The Sewer Director has full authority to implement and enforce all provisions of this subchapter, as this official is responsible for initiating the various types of enforcement responses to be used.

('70 Code, § 13.20.010) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.46 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or THE ACT. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 *et seq.*

APPROVAL AUTHORITY. The Director in an NPDES state with an approved state pretreatment program and the administrator of EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER. An authorized representative of an industrial user may be:

- (1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation;
- (2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or
- (3) A duly authorized representative of the individual designated above if the representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

AUTHORIZED REPRESENTATIVE OF CITY. The Mayor or his or her designee.

BIOCHEMICAL OXYGEN DEMAND or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20°C, expressed in terms of weight and concentration milligrams per liter (mg/l).

BUILDING SEWER. A sewer conveying wastewater from the premises of a user to the POTW.

CATEGORICAL STANDARDS. National categorical pretreatment standards or pretreatment standard.

CITY. The City of Frankfort, Kentucky, the Board of Commissioners or the Sewer Department.

COOLING WATER. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

COMPATIBLE POLLUTANT. Biochemical oxygen demand, suspended solids, pH, ammonia, fats, oils and grease (FOG), e coli bacteria, and fecal coliform bacteria, plus any additional pollutants identified in the publicly owned treatment work's NPDES permit, where the publicly owned treatment work is designed to treat the pollutants and, in fact, does not treat the pollutants to the degree required by the POTW's NPDES permit.

CONTROL AUTHORITY. The “approval authority,” defined hereinabove or the city if the city has an approved pretreatment program under the provisions of Title 40 C.F.R. Part 403.11.

DILUTION STREAM. Any wastewater not generated by a process regulated for the specific pollutant by a categorical standard under Title 40 C.F.R. Sub. N.

DIRECT DISCHARGE. The discharge of treated or untreated wastewater directly to the waters of the state.

ENVIRONMENTAL PROTECTION AGENCY or EPA. The U.S. Environmental Protection Agency or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of the Agency.

FOOD SERVICE ESTABLISHMENT. Any commercial, industrial or government facility discharging kitchen or food preparation wastewater including restaurants; motels; hotels; cafeterias; hospitals; schools; bars; taverns; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; nursing homes; or similar places in which food is prepared for sale or service on the premises or elsewhere for charge; including but not limited to any establishment required to obtain a food service permit or a retail food service permit issued by the Franklin County Health Department. This definition does not include private homes where food is prepared or served for individual family consumption and does not include locations served exclusively by vending machines.

GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum pump tank trucks.

INCOMPATIBLE POLLUTANT. All pollutants other than “compatible pollutants,” as defined in this section.

INDIRECT DISCHARGE. The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, 33 USC 1317, into the POTW, including holding tank waste discharge into the system.

INDUSTRIAL USER. A source of indirect discharge which does not constitute a “discharge of pollutants,” under regulations issued pursuant to Section 402 of the Act.

INTERFERENCE.

(1) The inhibition or disruption of the POTW treatment processes or operations or which contributes to a violation of any requirement of the city’s NPDES permit.

(2) The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, 33 USC 1345, or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act or more stringent state criteria, including those contained in any state sludge management plan prepared pursuant to the Title IV of SWDA, applicable to the method of disposal or use employed by the POTW.

MAY. The act referred to is permissive.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or **PRETREATMENT STANDARD.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, 33 USC 1347, which applies to a specific category of industrial users.

NATIONAL PROHIBITIVE DISCHARGE STANDARD or **PROHIBITIVE DISCHARGE STANDARD.** Any regulation developed under the authority of Section 307(b) of the Act and Title 40 C.F.R. Part 403.5.

NEW SOURCE. Any source, the construction of which is commenced after the publication of proposed regulations prescribing Section 307(c), 33 USC 1317, categorical pretreatment standard which will be applicable to the source, if the standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a **NEW SOURCE** means any source, the construction of which is commenced after the date of promulgation of the standard.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM or **NPDES PERMIT.** A permit issued pursuant to Section 402 of the Act, 33 USC 1342.

PERSON. Any individual, partnership, copartnership, firm, company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

pH. The logarithm, base ten, of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

POLLUTION. The manmade or man-induced alteration of the chemical, physical, biological and/or radiological integrity of water.

POLLUTANT. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

***PRETREATMENT* or *TREATMENT*.** The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes or other means, except as prohibited by Title 40 C.F.R. Part 403.6(d).

***PRETREATMENT REQUIREMENTS*.** Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on a significant industrial user.

PUBLICLY-OWNED TREATMENT WORKS* or *POTW*.** A treatment works, as defined by Section 212 of the Act, 33 USC 1292, which is owned in this instance by the city and managed by the Sewer Department. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this subchapter, ***POTW shall also include any sewers that convey wastewater to the ***POTW*** from persons outside the city who are, by contract or agreement with the city, users of the city's ***POTW***.

***POTW TREATMENT PLANT*.** The portion of the POTW designed to provide treatment to wastewater.

***SEWER DIRECTOR*.** The person designated by the city to supervise the management and operation of the POTW and the collection system serving the POTW, or his or her duly authorized representative(s).

***SHALL*.** The act referred to is mandatory.

***SLUG DISCHARGE*.** Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge and/or any discharge of water or wastewater in which the concentration of any given constituent or the quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flow rate during normal operation and/or adversely affects the POTW.

***SIGNIFICANT NONCOMPLIANCE*.** A user is in significant noncompliance if one or more of the following criteria are met and subject to the appropriate enforcement response(s).

(1) Chronic violations of wastewater discharge limits, defined as those in which 66% or more of all of the measurements taken during a six-month period exceed, by any magnitude, the daily, maximum limit or the average limit for the same pollutant parameter;

(2) Technical review criteria (TRC) violations, defined as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the

product of the daily average maximum limit or the average limit times the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit, daily maximum or longer term average, that the control authority determines has caused, alone or in combination with other discharges, interference or pass through, including endangering to health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent a discharge;

(5) Failure to meet within 90 days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or other order issued hereunder for starting construction, completing construction or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

SIGNIFICANT USER.

(1) Any discharger subject to categorical pretreatment standards, under Title 40 C.F.R. Part 403.6 and Title 40 C.F.R. Chapter I, Sub. N;

(2) Any industrial user that discharges an average of 25,000 gallons or more per day or average work day;

(3) Has a flow greater than 5% of the flow in the city's wastewater treatment system; or

(4) Has in its wastewater toxic pollutants as defined pursuant to Section 307 if the Act or state statutes and rules or is found by the city, state approval authority or the U.S. EPA have significant impact, either singly or in combination with other contributing users, on the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system.

STATE. The State of Kentucky.

STANDARD INDUSTRIAL CLASSIFICATION or SIC. A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

STORMWATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUSPENDED SOLIDS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids and which is removable by laboratory filtering.

TOXIC POLLUTANTS. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA Section 307(a) or other acts.

USER. Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

WASTEWATER. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

WASTEWATER DISCHARGE PERMIT. As set forth in § 52.50(B).
(‘70 Code, § 13.20.010) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

§ 52.47 ABBREVIATIONS.

The following abbreviations shall have the designated meanings:

BOD. Biochemical oxygen demand.

C.F.R. Code of Federal Regulations.

COD. Chemical oxygen demand.

EPA. Environmental Protection Agency.

l. Liter.

mg. Milligrams.

mg/l. Milligrams per liter.

NPDES. National pollutant discharge elimination system.

POTW. Publicly-owned treatment works.

SIC. Standard industrial classification.

SWDA. Solid Waste Disposal Act, 42 USC 6901 *et seq.*

USC. United States Code.

TSS. Total suspended solids.

(‘70 Code, § 13.20.010) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.48 DISCHARGES; SPECIAL REQUIREMENTS.

(A) *Discharge of unpolluted waters into sewer.*

(1) No person(s) shall discharge or cause to be discharged through any leak, defect or connection any unpolluted waters such as storm water, ground water, roof runoff, subsurface drainage or cooling water to any sanitary sewer, building sewer, building drain or building plumbing. The Sewer Director or his or her representative shall have the right, at any time, to inspect the inside or outside of buildings or smoke test for connections, leaks or defects to building sewers and require disconnection or repair of any pipes carrying the water to the building sewer.

(2) The waters shall not be removed through the dual use of sanitary drain sump or a sump pump to building sanitary sewer.

(3) Discharge of the waters by a manual switch-over from sanitary sewer to storm drainage will not be an acceptable method of separation. In case both storm and sanitary sewage is present, separate drainage or pumping system shall be included.

(4) Stormwater, groundwater and all other unpolluted drainage may be discharged to the sewers as are used as storm sewers (combined sewers), if no separate storm sewer is available, and if approved by the Sewer Director, however no new combined sewers will be permitted. Any new construction which contributes storm inflow to an existing combined sewer must design the new construction to minimize or delay the inflow by means of retention ponds, holding tanks, metered detention ponds or other approved measures. Any new building connected to a combined sewer shall be constructed with separate domestic waste and inflow lines so that the inflow line can be disconnected if a separate storm sewer becomes available.

(5) The owner(s) of any building sewers having the connections, leaks or defects shall bear all costs incidental to removal of the sources.

(B) *Substances which interfere.* No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW.

(1) (a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to POTW or to the operation of POTW. At no time, shall a waste stream exhibit a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in Title 40 C.F.R. Part 261.21.

(b) Prohibited materials or discharges include but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which have a closed cup flashpoint of 140°F (60°C) or less, and any substance which the city, the state or EPA has notified the user is a fire hazard or a hazard to the sanitary sewer system.

(2) Solid or viscous substances in quantities or of a size which may be capable of causing obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to grease, garbage with particles greater than one-half inch in any

dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residue from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 6.0, or higher than 9.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the city.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(5) Any pollutants(s), which, either alone or by interaction with other substances, produce toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(6) Any substances which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act, any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or state criteria applicable to the sludge management method being used.

(7) Any substance which will cause the POTW to violate its NPDES/KPDES permit, sludge disposal permit or the receiving water quality standards.

(8) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW that will result in a treatment plant influent temperature which exceeds 40°C (104°F).

(9) Any slug load or pollutants, including oxygen demanding pollutants, released at a flow or concentration that will cause interference with the POTW's operation.

(10) The discharge of petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through at the POTW.

(11) Any trucked or hauled pollutants, except at discharge points designated by the Sewer Director.

(C) *Pollutant discharge limits.*

(1) General conditions. The following described substances, materials, waters or waste shall be limited in discharge to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The Sewer Director may set additional limitations or limitations more stringent than those established in the regulations below if, in his or her opinion, the more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability, the Sewer Director shall give consideration to the factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant and other pertinent factors.

(2) Dilution of wastewater discharge. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or for any other pollutant-specific limitation developed by the city or the commonwealth.

(3) Grease, oil and sand interceptors. Grease, oil and sand interceptors shall be provided when in the opinion of the Sewer Director they are necessary for the proper handling of liquid wastes containing floatable oils and/or greases in excessive amounts, or any flammable wastes, sand or other harmful ingredients, except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Sewer Director and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal. The city may require reporting of the information for their review. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms. Interceptors shall also comply with applicable regulations of the Franklin County Health Department.

(4) Special industrial pretreatment requirement.

(a) Pursuant to the requirements imposed on publicly owned wastewater treatment works by the Federal Water Pollution Control Act Amendments of 1972 and later amendments, all pretreatment standards promulgated by the U.S. EPA under Title 40 C.F.R. Sub. N and Title 40 C.F.R. Part 403 for new and existing industrial discharges to public sewer systems are hereby made a part of this subchapter. Any industrial waste discharge which violates these EPA pretreatment standards shall be in violation of this subchapter.

(b) Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his or her expense.

(c) Any person who transports septic tank contents, seepage pit or cesspool contents, liquid industrial waste or other batch liquid waste and wishes to discharge the waste to the public sewer system shall first obtain permission for the discharge from the Sewer Director. All persons receiving the permission shall abide by all applicable provisions of this subchapter and any other special provisions that may be established by the Sewer Director as necessary for the proper operation and maintenance of the sewerage system. Waste haulers who have been granted permission to discharge to the public sewer system shall pay fees for the discharge in accordance with a fee schedule established by the Sewer Director and approved by the city. It shall be illegal to discharge any batch liquid waste into any manhole or other part of the public sewer system, or any building sewer or other facility that discharges to the public sewer system, except at points of discharge designated by the Sewer Director for such purposes.

(d) Any liquid waste hauler illegally discharging to the public sewer system shall be subject to immediate revocation of discharge privileges, if granted, and further subject to the penalties and enforcement actions prescribed in § 52.53. Nothing in this subchapter shall relieve waste haulers of the responsibility for compliance with County Health Department, state or federal regulations.

(5) Protection from accidental and/or slug discharges.

(a) Each significant industrial user shall provide protection from accidental and/or slug discharges of prohibited materials or other substances regulated by this subchapter. Facilities to prevent accidental and slug discharges of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Once every two years, the Sewer Director will determine whether each significant industrial user needs to develop a plan to control slug discharges. If the Sewer Director decides that a slug control plan is needed, the plan shall contain the following:

1. Description of discharge practices;
2. Description of stored chemicals;
3. Procedures for notifying the POTW; and
4. Prevention procedures for spills.

(b) In the case of all possible or actual accidental and/or slug discharges, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include the location of discharge, type of waste, concentration and volume and corrective actions taken.

(c) Within five days following an accidental and/or slug discharge, the user shall submit to the Sewer Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. The notification shall not relieve the user

of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall the notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article, the enforcement response plan or other applicable law or regulation.

(d) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer the dangerous discharges to occur are advised of the emergency notification procedures.

(6) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standard for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this subchapter for sources in the subcategory, shall immediately supersede the limitations imposed under this subchapter. The city shall notify all affected users of the applicable reporting requirements under Title 40 C.F.R. Part 403.12.

(7) Restricted discharges. The following discharges in or to the city sewer system are prohibited.

(a) Wastewater containing more than 100 milligrams per liter of petroleum oil, nonbiodegradable cutting oils or products of mineral oil origin;

(b) Wastewater from industrial plants, commercial business or other nondomestic connections containing floatable oils, fat or grease, whether emulsified or not, in amounts that would not interfere or inhibit the biological treatment processes;

(c) Any garbage that has not been properly shredded (garbage grinders may be connected to sanitary sewers from homes, motels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers);

(d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interactions with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitations set forth in a federal pretreatment standard (a toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act);

(e) Any radioactive wastes or isotopes of a half-life or concentration as may exceed limits established by the Sewer Director in compliance with applicable state and/or federal regulations;

(f) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes;

(g) Any wastewater with objectionable color not removable in the POTW, but in no case, wastewater with a color at the introduction into the POTW that exceeds 300 ADMI units;

(h) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to the degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving stream of the POTW;

(i) Any water or waste which has characteristics based on a 24-hour composite sample, grab or a shorter period composite sample if more representative, which exceed the following normal maximum domestic wastewater parameter concentrations (discharges greater than these concentrations may be subject to penalties contained in the enforcement response plan for the city, in addition to surcharge);

| <i>Parameter</i> | <i>Daily Maximum Allowable Concentration Without Surcharge (mg/l)</i> |
|------------------|---|
| BOD | 200 |
| TSS | 200 |

(j) The city has received authority through U.S. EPA and state statutes to enforce the requirements of Title 40 C.F.R. Sub. N and Title 40 C.F.R. Part 403. All users shall comply with the requirements of those regulations as well as with all articles of this subchapter.

(k) Any waste or wastewater classified as a hazardous waste by the Resource Conservation and Recovery Act (RCRA) without, at least, a 60-day prior notification of the discharge to the Sewer Director of the POTW. This notification must include the names of the waste, EPA hazardous waste number, type of discharge, volume/mass of discharge and time of occurrence. The Sewer Director may deny or condition this discharge at any time.

(l) The following limitations are established for characteristics of any wastewater to be discharged into the municipal sewer system.

| <i>Max. Daily Concentration (mg/l)</i> | <i>Parameter</i> |
|--|------------------|
| 0.70 | Arsenic |
| 0.11 | Cadmium |

| <i>Max. Daily Concentration (mg/l)</i> | <i>Parameter</i> |
|--|------------------|
| 2.50 | Total Chromium |
| 0.22 | Copper |
| 1.00 | Lead |
| 0.005 | Mercury |
| 0.68 | Nickel |
| 0.77 | Silver |
| 1.00 | Zinc |
| 0.89 | Cyanide |
| 0.003 | PCB's |
| 100.00 | Oil and grease |
| less than 6.0 or greater than 9.0 | pH |

(8) State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this subchapter.

(9) City's right of revision. The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in this chapter.

(10) Written notice. Within five days following an accidental discharge, the user shall submit to the city a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. The notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

(11) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer a dangerous discharge to occur are advised of the emergency notification procedure.
('70 Code, § 13.20.020) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

§ 52.49 FEES.

(A) *Purpose.* It is the purpose of this subchapter to provide for the recovery of costs from user of the city's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the city's schedule of charges and fees.

(B) *Charges and fees.* The city may adopt charges and fees which may include:

(1) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;

(2) Fees for monitoring inspections and surveillance procedures;

(3) Fees for reviewing accidental discharge procedures and construction;

(4) Fees for permit application;

(5) Fees for filing appeals;

(6) Fees for consistent removal (by the POTW) of the excessive strength conventional pollutants not otherwise subject to federal pretreatment standards; and

(7) Other fees as the city may deem necessary to carry out the requirements contained herein.

(C) These fees relate solely to the matters covered by this subchapter and are separate from all other fees chargeable by the city.

('70 Code, § 13.20.030) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05)

§ 52.50 ADMINISTRATION.

(A) *Wastewater discharge.* It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city and/or to the POTW any wastewater, except as authorized by the Sewer Director in accordance with the provisions of this subchapter. Any agency and/or industries outside the jurisdiction of the city that wish to contribute wastewater to the POTW must first sign, through an authorized representative, an inter-jurisdictional agreement whereby the agency and/or industrial user agrees to be regulated by all provisions of this subchapter, state and federal regulations. A wastewater discharge permit may then be issued by the Sewer Director in accordance with section (B) below.

(B) *Wastewater discharge permits.*

(1) (a) All significant industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant industrial users connected to or contributing to the POTW shall apply for a wastewater discharge permit within 30 days after the effective date of this subchapter.

(b) All food service establishments shall obtain a pretreatment wastewater discharge permit.

(2) *Permit applications.* Users required to obtain a wastewater discharge permit shall complete and file with the city an application in the form prescribed by the city, and accompanied by a fee prescribed by the city. Existing users shall apply for a wastewater discharge permit within 30 days after the effective date of the subchapter, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation the following information:

(a) Name, address and location, if different from the address;

(b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

(c) Wastewater constituents and characteristics including but not limited to those mentioned in § 52.48 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA, pursuant to Section 304(g) of the Act and contained in Title 40 C.F.R. Part 136, as amended;

(d) Time and duration of contribution;

(e) Average daily and three minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation;

(g) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

(i) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

1. The schedule must be acceptable to the city.

2. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (for example, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction and the like).

40B

Frankfort - Public Works

3. No increment referred to in division (B)(2)(i)2. above shall exceed nine months.

4. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the city including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event, shall more than nine months elapse between the progress reports to the city.

(j) Each product produced by type, amount, process or processes and rate of production;

(k) Type and amount of raw materials processed, average and maximum per day;

(l) Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(m) A copy of the industry's written environmental control program, comparable document or policy; and

(n) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(o) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(3) *Permit modification.* Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to the standards shall be revised to require compliance with the standard within the time frame prescribed by the standard. Where a user, subject to a national categorical pretreatment standard has not previously submitted an application for a wastewater discharge permit, as required hereby, the user shall apply for a wastewater discharge permit within 90 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the city within 90 days after the promulgation of an applicable federal categorical pretreatment standard the information required by this subchapter.

(4) (a) Wastewater discharge permits shall be expressly subject to all provisions of this subchapter and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

1. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

2006

2. Limits on the average and maximum wastewater constituents and characteristics;
3. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
4. Requirements for installation and maintenance of inspection and sampling facilities;
5. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
6. Compliance schedules;
7. Requirements for submission of technical reports or discharge reports;
8. Requirements for maintaining and retaining plant records relating to wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system; as specified by the city for a minimum of three years, and afford city access thereto;
9. Requirements for notification of slug discharges;
10. Mass limitations on discharges;
11. Requirements for submission and approval of spill control plans in accordance with this subchapter;
12. Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
13. Requirements for the user to reimburse the city for all expenses related to monitoring, sampling and testing performed at the direction of the Sewer Director and deemed necessary by the city to verify that the user is in compliance with the permit; and
14. Other conditions as deemed appropriate by the city to ensure compliance with this subchapter.

(b) Where an effluent from an industrial process is mixed prior to treatment with wastewater other than those generated by the regulated process, fixed alternative discharge limits may be derived for the discharge permit by the Sewer Director. These alternative limits shall be applied to the mixed effluent. These alternative limits shall be calculated using the “combined waste stream formula” and/or “flow-weighted average formula” given, Title 40 C.F.R. Part 403.6(e). Where the

effluent limits in a categorical pretreatment standard are expressed only in terms of mass of pollutants per unit of production (production-based standard), the Sewer Director may convert the limits to equivalent limitations expressed either as mass of pollutant that may be discharged per day or of effluent concentration for purposes of calculating effluent permit limitations applicable to the permittee. The permittee shall be subject to all permit limits calculated in this manner under Title 40 C.F.R. Part 403.6(c) and must fully comply with these alternative limits. All categorical industrial users subject to production-based standards must report production rates annually so that alternative permit limits can be calculated if necessary. The categorical industrial user must report production rates annually so that alternative permit limits can be calculated if necessary. The categorical industrial user must notify the Sewer Director 30 days in advance of any change in production levels that might effect the flow or other data used to calculate the effluent limits in the discharge permit.

(5) *Permit duration.* Wastewater discharge permits shall be issued for a specified time period, not to exceed three years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements, as identified herein, are modified or other just cause exists. The user shall be informed at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(6) *Permit transfer.* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The city may deny the transfer of the permit if it is deemed necessary to comply with all provisions of this subchapter.

(C) (1) *Reporting requirements for permittee.*

(a) Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new user, following commencement of the introduction of wastewater into the POTW, any user subject to federal categorical pretreatment standards and requirements shall submit to the Sewer Director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process or processes which are limited by categorical pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by the categorical standards and requirements.

(b) The report shall state whether the applicable categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional pretreatment equipment and time schedule are necessary to bring the user into compliance with the applicable categorical standard or requirement. This statement shall be signed by an authorized representative of the user.

(2) *Periodic compliance reports.*

(a) All significant industrial users shall submit to the Sewer Director in accordance with the industrial user permit indicating the nature and concentration of pollutants in the effluent which are limited by the pretreatment standards or the industrial user permit. This report also shall include a record of all daily flows which during the reporting period exceed the average daily flow. At the discretion of the Sewer Director and in consideration of such factors as local high or low flow rates, holidays and budget cycles, the Sewer Director may agree to alter the months during which the above reports are to be submitted. In addition the industrial users are to report any changes in flow, type and/or amount of pollutants discharged to the Sewer Director prior to the change, and the Sewer Director shall have the authority to deny or condition any new introductions of, or changes in, wastewater constituents or volume, if deemed necessary.

(b) All analyses shall be performed by a laboratory acceptable to the city. Analytical procedures shall be in accordance with procedures established by the U.S. EPA, pursuant to Section 304(g) of the Act and contained in Title 40 C.F.R. Part 136 and amendments thereto, or with any other test procedures approved by the U.S. EPA. Sampling shall be performed in accordance with the techniques approved by the U.S. EPA.

(c) Where Title 40 C.F.R. Part 136 does not include a sampling or analytical technique for the pollutant in question sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the U.S. EPA.

(d) All industrial users shall retain all pretreatment records for a minimum of three years, as required by Title 40 C.F.R. Part 403.12(0)(2).

(3) *Baseline monitoring report.*

(a) A baseline monitoring report (BMR) must be submitted to the Sewer Director by all categorical industrial users at least 90 days prior to initiation of discharge to the sanitary sewer. The BMR must contain, at a minimum, the following:

1. Production data including a process description, SIC code number, raw materials used, chemicals used and final product(s) produced;
2. Name of facility contact person;
3. Wastewater characteristics such as total plant flow, types of discharges, average and maximum flows from each process;

4. Nature and concentration of pollutants discharged to the public sewer system that are regulated by this subchapter, state and/or federal pretreatment standards and sample type and location; and

5. Information concerning any pretreatment equipment used to treat the facility's discharge.

(b) All new sources of industrial discharge must be in compliance with all provisions of this subchapter prior to commencement of discharge.

(D) *Permit violations.* All significant industrial users must notify the Sewer Director within 24 hours of first becoming aware of a permit violation. This notification shall include the date of the violation, the parameter violated and the amount in excess. Within 30 days of first becoming aware of a permit violation, the significant industrial user must resample for the parameter(s) violated and submit this sample analysis to the Sewer Director, unless the Sewer Director, on behalf of the city, conducts monitoring of this parameter within that 30-day period.

(E) *Monitoring requirements.*

(1) The city shall require significant industrial users to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. The city shall review and approve the location, plans, and specifications for the monitoring facilities and may require them to be constructed to provide for the separate monitoring and sampling of industrial waste and sanitary sewage flows.

(2) There shall be ample room in or near the sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

(4) All sampling analyses done in accordance with approved U.S. EPA procedures by the significant industrial user during a reporting period shall be submitted to the Sewer Director, regardless of whether or not that analyses was required by the user's discharge permit.

(5) The significant industrial user must receive the approval of the Sewer Director before changing the sampling point and/or monitoring facilities to be used in all required sampling.

(F) *Inspection and sampling.* The city shall inspect the facilities of any user to ascertain whether the purpose of this subchapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, copying, sampling and examination of records or in the performance of any of their duties. "Reasonable times" shall include any time during which the user is discharging to the public sewer system and/or operating any manufacturing process. The city, approval authority and (where the NPDES state is the approval authority), EPA shall have the right to set up on the user's property devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(G) *Pretreatment.*

(1) All significant industrial users shall provide necessary wastewater treatment as required to comply with this subchapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. The city may require the development of a compliance schedule for installation of pretreatment technology and/or equipment by any significant industrial user that is not meeting discharge limits established in the user's wastewater discharge permit. Any facilities required to pretreat wastewater to a level acceptable to the city for review, and shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Sewer Director for review, and shall be acceptable to the city before construction of the facility. The review of the plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this subchapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

(2) The city shall annually publish in *The State Journal Newspaper* a list of the users which were in significant noncompliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months. Significant noncompliance is any of the following conditions:

- (a) Results in the exercise of emergency authority by the Sewer Director;
- (b) Remains uncorrected 45 days after notice of noncompliance is given;
- (c) Involves failure to report noncompliance accurately;
- (d) Wastewater violations:

1. *Chronic violations.* Sixty-six percent or more of all measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit or the monthly average limit for the same pollutant parameter;

2. *Technical review criteria (TRC) violations.* Thirty-three percent or more of all measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the monthly average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease and 1.2 for all other pollutants except pH).

3. *Effluent limit.* Any violation of a pretreatment effluent limit that the Sewer Director believes has caused alone or in combination with other discharges, interference or pass-through or has endangered the health of the POTW personnel or the public.

4. *Imminent endangerment.* Any discharge causing imminent endangerment to human health or to the environment or resulting in the Sewer Director's use of his or her emergency authority to halt or prevent a discharge.

5. *Compliance milestones.* Violations of compliance schedule milestones, failure to comply with schedule milestones for starting or completing construction or attaining final compliance by 90 days or more after the schedule date.

6. *Reporting violations.* Failure to provide required reports within 30 days of the due date.

7. *Operation.* Any violation or group of violations which the Sewer Director determines will adversely effect the operation or implementation of the local pretreatment program. The public notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months. All records relating to the pretreatment program of the city shall be made available to officials of the U.S. EPA or approval authority upon request. All records shall be maintained for a minimum of three years in accordance with Title 40 C.F.R. Part 403.12(0)(2).

(e) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

(H) *Confidential information.* Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this subchapter, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment

programs. Provided however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information and shall be made available to the public without restriction.

('70 Code, § 13.20.040) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

§ 52.51 POWERS AND AUTHORITY OF INSPECTORS.

(A) *Right to enter premises.* The Sewer Director and city employees and representatives designated by the Sewer Director and authorized representatives of applicable federal and state regulatory agencies bearing proper credentials and identification shall be permitted to enter all properties at any reasonable time for purposes of, but not limited to inspection, observation, measurement, sampling and testing of discharges to the public sewer system and inspection and copying of all records in accordance with the provisions of this subchapter.

(B) *Right to obtain information regarding discharge.* Duly authorized employees and representatives of the city are authorized to obtain information concerning character, strength and quantity of industrial wastes which have a direct bearing on the kind and source of discharge to the wastewater collection system.

(C) *Access.*

(1) Duly authorized employees and representatives of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to inspection, observation, measurement and sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement.

(2) All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(D) *Safety.*

(1) While performing the necessary work on private properties referred to in division (A) above, all duly authorized employees of the city shall observe all safety rules applicable to the premises established by the facility and the company shall be held blameless for any injury or death to the city employee.

(2) The city shall secure the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the

company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this subchapter. ('70 Code, § 13.20.050) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

§ 52.52 ENFORCEMENT.

(A) Harmful contributions.

(1) Generally.

(a) The city through the Sewer Director or his or her designee, to insure compliance with this subchapter, and as permitted through Title 40 C.F.R. Sub. N, Part 401 thru 471 and 401 KAR 5:055, Section 9 may take the following enforcement steps against users not in compliance with this subchapter. The remedies available to the Sewer Director include injunctive relief, civil and criminal penalties, immediate discontinuance of discharges and/or water service and the publishing of the list of significant violators annually. The enforcement authority shall be vested in the Sewer Director of the POTW or his or her designee.

(b) All violations of requirements of this subchapter must be reviewed and responded to by the Sewer Director or his or her representative. In general, the Sewer Director shall notify the industrial user when a violation occurs. For all violations, the Sewer Director shall receive an explanation and, as appropriate, a plan from the industrial user to correct the violation within a specific time period. If the violation(s) persist or the explanation and/or plan are not adequate, the Sewer Director's response shall be more formal and commitments or schedules, as appropriate, for compliance will be established in an enforceable document. The enforcement response selected will be related to the seriousness of the violation. Enforcement responses will be escalated if compliance is not achieved expeditiously after the initial action. A significant violation will require a formal enforcement action. The full scale of enforcement actions will be detailed in the city's pretreatment program enforcement response plan.

(2) Enforcement actions.

(a) *Informal notice.* These actions include statements made to the industrial user during sampling and/or inspection visits, telephone calls to the appropriate company official, informal meetings, warning or remainder letters. These informal notices shall be used for minor violations.

(b) *Formal notice.* These actions include the following:

1. *Notice of violation.* Any person found to be violating any provision of this subchapter, wastewater discharge permit or any order issued hereunder shall be served by the POTW Sewer Director with a written notice stating the nature of the violation. The offender must permanently cease all violations.

2. *Administrative orders/fines.* Any person who, after receiving a notice of violation, shall continue to discharge in violation of this subchapter or other pretreatment standard or requirement or is determined to be a chronic or persistent violator, shall be ordered to appear before the Sewer Director. At the appearance, a compliance schedule will be given to the violating user and an administrative fine assessed. The fine shall be determined on a case-by-case basis which shall consider the type, severity, duration and number of violations, severity of impact on the POTW, impact on human health, user's economic benefit from the violation, past history of the user and good-faith efforts made by the user. The fine shall be a nonarbitrary but appropriate amount.

(B) *Disputes.* Users desiring to dispute the fines shall file with the Sewer Director a request for the city to reconsider the fine within ten days of being notified of the fine. The city shall convene a hearing on the matter within 15 days of receiving a request from the user.

(C) *Orders.* The administrative order may take any of the following four forms:

(1) *Consent order.* The Sewer Director is hereby empowered to enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. The orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified in the order. Consent orders shall have the same force and effect as all other administrative orders.

(2) *Compliance order.* When the Sewer Director finds that an industrial user has violated or continues to violate this subchapter or permit or order issued hereunder, he or she may issue an order to the industrial user responsible for the violation directing that following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated. Orders may also contain other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.

(3) *Cease and desist order.* When the Sewer Director finds that an industrial user has violated or continues to violate this subchapter or any permit or order issued hereunder, the Sewer Director may issue an order to cease and desist all violations to the user and direct those persons in noncompliance to:

(a) Comply forthwith; or

(b) Take appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the

discharge.

2010 S-6

(4) *Show cause hearing.*

(a) The Sewer Director may issue to any user who causes or contributes to violations of this subchapter, discharge permit or order issued hereunder, an order to appear and show cause why more severe enforcement action should not be taken. A notice shall be served on the user specifying the time and place of the hearing to be held by the Sewer Director regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the user to show cause before the Sewer Director why more severe enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or officer of the facility. Whether or not a duly notified industrial user or its representative appears, immediate enforcement action may be pursued.

(b) The city itself may conduct the hearing and take evidence or may designate a representative to:

1. Issue in the name of the city notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearings;

2. Take the evidence; and

3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city for action thereon. At any hearing held pursuant to this article, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof. After the city has reviewed the evidence, it may issue an order to the user responsible for the violation directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Further orders and directives as are necessary and appropriate may be issued.

(D) *Suspension of service.* The city may suspend the wastewater treatment service and/or a wastewater discharge permit when the suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit. Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take the steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user

describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

(‘70 Code, § 13.20.060) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

§ 52.53 VIOLATIONS.

(A) *Written notice.* Any user found to be violating any provision of this subchapter or discharge permit or order issued hereunder shall be served by the city or its designee with written notice stating the nature of the violation. The violator shall permanently cease all violations upon receipt of this notice. As contained in § 52.52, the notice may be of several forms. Also, as contained in §§ 52.52 and 52.99, penalties of various forms may be levied against users for violations of this subchapter. The penalties shall range from publication of violators in the local newspaper to fines as provided in § 52.99.

(B) *Revocation of permit.*

(1) Any user who violates any of the provisions of this subchapter or applicable state and federal regulations shall be subject to termination of its authority to discharge sewage into the public sewer system, as well as the payment of fines.

(2) The termination shall be immediate if necessary for the protection of the POTW. The user may also have water service terminated. Any user who violates any condition(s) of this subchapter, discharge permit, order or applicable state or federal regulations is subject to having its wastewater discharge permit revoked in accordance with the procedures of § 52.52:

(a) Failure of a user to factually report the wastewater constituents and characteristics of his or her discharge;

(b) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user’s premises for the purpose of inspection or monitoring; or

(d) Violation of conditions of the wastewater discharge permit, ordinance or other order issued thereunder.

(C) *Liability.*

(1) Any user violating any of the provisions of this subchapter, discharge permit or other order issued hereunder shall become liable to the city for any expense, loss or damage occasioned by the city by reason of the violation.

(2) This civil liability is as provided by state and federal regulations.

(D) *Falsifying information and/or misrepresentation.* Any person who knowingly and/or negligently makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this subchapter, or wastewater discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this subchapter, shall, be punished by a fine of not more than \$1,000 or by imprisonment for not more than 12 months.

(‘70 Code, § 13.20.070) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

SEWER CAPITAL RECOVERY PROGRAM

§ 52.60 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning stated below.

CONSTRUCTING PARTY. Individuals or entities constructing sanitary sewer extensions to areas or developments not currently provided sewer service by the City Sewer Department.

PROJECT. The sanitary sewer extension and upgrades, if any, built by the constructing party or by the city.

SUBSEQUENT DEVELOPERS. Individuals or entities benefitting from sanitary sewer extensions built by a constructing party(s), excluding the city and individuals or entities within the constructing party’s development.

(Ord. 7, 2007, passed 4-23-07)

§ 52.61 COST RECOVERY PROGRAM.

(A) Upon application and payment of the required application fee by any constructing party to the city to extend sanitary sewers to undeveloped or unsewered areas, the Sewer Department shall as soon as practicable undertake a review of the area to be served by the proposed extension which will be transferred to the city. The information developed will be used in reviewing the application for

cost recovery. The cost of such review shall be paid for in advance by the applicant. Only the portion of the sewer extension or upgrades to the system which will provide service to areas outside the property owned by the Constructing Party will be eligible for cost recovery.

(1) After determining the total amount of sanitary sewage flow available in the extension, and upgrades, if any, that are the subject of the application, the city shall determine the projected percentage of sanitary sewage flow to be allocated to the constructing party.

(2) The design and construction of the project shall have been approved by the Sewer Department, and as-built drawings of said project shall be provided to the Sewer Department. After inspection and approval of the project by the city, the project shall be transferred to the city pursuant to the written agreement between the city and the constructing party.

(B) A constructing party shall be permitted to receive from the subsequent developers in obtaining sewer service through said project each of their pro rata share of the cost of said project based upon the subsequent developer's relative percentages of projected sanitary sewage flow into said project.

(C) At the completion of the construction of any project contemplated by divisions (A) and (B) above, the constructing party shall certify, in a writing signed by a licensed accountant, to the Director of the city's Sewer Department, the costs eligible for cost recovery, which shall be limited to the direct cost of constructing the project, including engineering and design fees of the project. The constructing party shall keep all costs associated with the portion of the project eligible for cost recovery separate from any other sewer related costs. Copies of all receipts to verify actual costs shall be included with said certification. Items not documented shall not be included in the final approved cost. Said certification shall be made to the city no later than 60 days following transfer of said project to the city.

(D) At such time as any subsequent developer, who has been identified as being in the drainage area of any project makes application for a permit to connect to said project, the Director of the Sewer Department shall advise said applicant of his or her pro rata share of the cost of the project to which he seeks to connect plus any city administrative charges.

(1) The pro-rata share of the cost of the project shall be paid by the subsequent developer directly to the City Sewer Department no later than 30 days after the subsequent developer executes a contract with the city for the sewer line extension.

(2) The city shall promptly reimburse the constructing party or his or her successor, the cost recovery amount less its share of any city administrative charges.

(3) The City Sewer Department Cost Recovery administrative fee shall be divided equally between the constructing party and the subsequent developer.

(4) The constructing party shall notify the city of the additional persons or entities required to make cost recovery payments. The applicable tap fee shall be paid by the subsequent developer directly to the City Sewer Department.

(5) The Cost Recovery administrative fee to be paid for each cost recovery application is as follows:

(a) \$100.00 for subsequent developments of ten residences or less, or containing structures with sanitary sewer flow less than or equal to the flow from ten residences.

(b) \$250.00 for subsequent developments of 50 residences or less, or containing structures with sanitary sewer flow less than or equal to the flow from 50 residences.

(c) \$500.00 for subsequent developments exceeding 50 residences, or containing structures with sanitary sewer flow greater than the flow from 50 residences.

(E) (1) Should the Sewer Department require a constructing party choosing not to participate in the cost recovery program to oversize the proposed sewer line extension, pump station and force main capacity above the standard otherwise required by law or regulation, the city shall bear the differential cost of the oversized pipe, pump and wet well materials, exclusive of any other associated costs, over the cost of such materials if oversizing were not so required. The city shall receive from developers or property owners subsequently obtaining sewer service through the project its pro rata share of the cost of said project.

(2) Should the city construct a sewer line extension or upgrade to its sewer system (hereinafter “city project”), the city may recover from developers or property owners subsequently obtaining sewer service through said city project the developer’s or property owner’s pro rata share of the cost of said city project.

(F) The term of cost recovery shall be for the shortest practicable time, but in no event shall recovery be allowed after ten years from the date of the transfer of the project to the city.

(1) Any amount to be paid under this subchapter shall be in addition to the connection fee or other applicable fee to be paid to the city. In no event shall the refund received by the constructing party exceed the cost of the project.

(2) In no event will a developer/or property owner be entitled to participate in or claim an interest in the cost recovery program for sewer facilities transferred to the city prior to the effective date of this subchapter.

(Ord. 7, 2007, passed 4-23-07)

§ 52.62 APPLICATION FEE.

(A) The purpose of this section is to set the amount of the fee to be paid to the Frankfort Sewer Department when submitting an application to participate in the Sewer Capital Recovery Program. The fee will pay for the cost of the processing and review of the application.

(B) Parties extending sanitary sewers to undeveloped or unsewered areas to be served by the city and desiring to participate in the Sewer Capital Recovery Program shall pay a fee in the amount of \$150.00 when submitting an application to participate in the program.
(Ord. 20, 2007, passed 6-25-07)

§ 52.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person, firm or corporation violating any of the provisions of §§ 52.01 through 52.33 or failing or refusing to comply with an administrative order issued due to the failure to comply with same, whether or not he, she or it shall be the owner or the occupant of the property involved, shall be fined not less than \$100 nor more than \$10,000 for each offense. Each day on which a violation shall occur or continue shall occur or constitute a separate offense.

(C) Any person, firm or corporation violating federal or state law or any of the provisions of §§ 52.45 through 52.53 or failing or refusing to comply with an administrative order issued due to the failure to comply with same, whether or not he, she or it shall be the owner or the occupant of the property involved, shall be fined not less than \$1,000 nor more than \$50,000 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

(D) In addition to the penalty set forth in this subchapter, any person, firm or corporation violating any of the provisions of § 52.01 through 52.62 can be required by the Sewer Director to take action to correct the condition causing the violation and to cease discharging into the city's sewer system if the condition causing the violation is not corrected or remedied.

(E) The city or its designee may take legal action to enforce the provisions of this subchapter, including an action for injunctive relief. In addition to the penalties provided in this subchapter, the city may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation incurred as a result of legal action taken against the person found to have violated this subchapter or the orders, rules regulations and permits issued hereunder.
(‘70 Code, § 13.04.120) (Ord. 22-85, 1985, passed 6-24-85; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

CHAPTER 53: EROSION CONTROL AND SEDIMENT CONTROL MEASURES

Section

| | |
|-------|--|
| 53.01 | Authority |
| 53.02 | Purpose and scope |
| 53.03 | Definitions |
| 53.04 | Permits |
| 53.05 | Review and approval |
| 53.06 | Erosion Protection and Sediment Control Plan |
| 53.07 | Design requirements |
| 53.08 | Inspection |
| 53.09 | Enforcement |
| 53.99 | Penalty |

§ 53.01 AUTHORITY.

(A) This chapter is adopted pursuant to the powers granted and limitations imposed by Kentucky laws, including the statutory authority granted to Kentucky cities in KRS Chapters 67 and 100.

(B) This chapter is adopted pursuant to the powers granted and limitations imposed by the Federal Clean Water Act, and in particular those parts that authorize local governments to require any state or federal department or agency to comply with all local water pollution control requirements.
(Ord. 7, 2005, passed 6-27-05)

§ 53.02 PURPOSE AND SCOPE.

(A) The regulations set forth in this chapter are intended to protect the general health, safety, and welfare of the citizens of the city and more specifically:

(1) To control or eliminate soil erosion and sedimentation resulting from land disturbing activities within the city;

(2) Establish guidelines, conservation practices and planning activities which minimize soil erosion and sedimentation;

(3) Comply with all applicable state and federal requirements for clean water, including limitations on the discharge of pollutants as set forth by the Kentucky Pollution Discharge Elimination System (KPDES); and all applicable provisions of the Federal National Pollution Discharge Elimination Systems storm water general permit for Phase II communities.

(B) This chapter controls land disturbances, soil storage, and erosion and sedimentation resulting from such activities and establishes procedures for issuance, approval, administration, and enforcement of an Erosion Protection and Sediment Control (EPSC) Permit.
(Ord. 7, 2005, passed 6-27-05)

§ 53.03 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning stated below.

APPLICANT. The landowner or developer who submits an application to the city for an EPSC permit pursuant to this chapter.

BEDROCK. In place solid rock.

BENCH. A relatively level step excavated into earth material on which fill is to be placed.

BEST MANAGEMENT PRACTICES (BMP). A technique or series of techniques, which are proven to be effective in controlling runoff, erosion, and sedimentation.

BORROW. Earth material acquired from an off-site location for use in grading on a site.

CLEARING AND GRUBBING. The cutting and removal of trees, shrubs, bushes, windfalls and other vegetation including removal of stumps, roots, and other remains in the designated areas.

CONTRACTOR. A person who contracts with the permittee, landowner, developer, or another contractor (i.e. subcontractor) to undertake any or all the land disturbance activities covered by this chapter.

CO-PERMITTEE. Any person, other than the permittee, including but not limited to a developer or contractor who has or represents financial or operational control over the land disturbing activity.

DETENTION FACILITY. A temporary or permanent natural or man made structure that provides for the temporary storage of storm water runoff.

DEVELOPER. Any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity.

2006 S-2

ENGINEER. A professional engineer licensed in the Commonwealth of Kentucky to practice in the field of civil works.

EROSION. The wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities.

EPSC (EROSION PROTECTION AND SEDIMENT CONTROL). The prevention of soil erosion and control of solid material during land disturbing activity to prevent its transport out of the disturbed area by means of air, water, gravity, or ice.

EPSC DESIGN MANUAL AND STANDARDS. A compilation of rules, design criteria, guidelines and standards adopted by the City of Frankfort as being proven methods of controlling construction related surface runoff, erosion and sedimentation.

EPSC PLAN. A detailed plan which includes a set of best management practices or equivalent measures designed to control surface runoff and erosion and to retain sediment on a specific development site or parcel of land during the period in which pre-construction and construction related land disturbances, fills, and soil storage occur, and before final improvements are completed, all in accordance with this chapter.

EROSION CONTROL INSPECTOR. A person designated by the issuing authority who has attended a Frankfort-sponsored or approved training course in EPSC.

FLOODPLAIN. The 100-year floodplain which is that area adjoining a watercourse which could be inundated by a flood that has a 1% chance of being equaled or exceeded in any given year and is delineated on the Federal Emergency Management Agency Floodway Maps.

GENERAL PERMIT. A KPDES Storm Water General Permit for storm water discharges related to construction activities that disturb one acre or more. Coverage under this general storm water permit is obtained by filing a Notice of Intent (NOI) with the Kentucky Division of Water.

GRADE. The vertical location of the ground surface.

- (1) Existing grade is the grade prior to grading.
- (2) Rough grade is the stage at which the grade approximately conforms to the approved plan.
- (3) Finish grade is the final grade of the site which conforms to the approved plan.

ISSUING AUTHORITY. The City of Frankfort Public Works Director or City Planning and Building Codes Director and their duly authorized designees.

2006 S-2

LAND DISTURBANCE ACTIVITY. Any land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or rights-of-way within the city, including but not limited to building demolition, clearing and grubbing, grading, excavating, transporting and filling of land. Land disturbance activity does not include the following:

(1) Minor land disturbance activities including, but not limited to, underground utility repairs, replacement of existing utilities, home gardens, minor repairs, and maintenance work.

(2) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

(3) Emergency work to protect life, limb, or property and emergency repairs. If the land disturbing activity would have required an approved EPSC except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of this chapter.

OUTFALL. The point of discharge to any watercourse from a public or private stormwater drainage system.

PERMITTEE. The applicant in whose name a valid EPSC permit is duly issued pursuant to this chapter and his/her agents, employees, and others acting under his/her direction.

PUBLIC WORKS DIRECTOR. The City of Frankfort Public Works Department Director and City Engineer.

RETENTION FACILITY. A temporary or permanent natural or manmade structure that provides for the storage of storm water runoff by means of a permanent pool of water.

RUNOFF. Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT. Soils or other surficial materials transported by surface water as a product of erosion.

SEDIMENTATION. The process or action of deposition sediment that is determined to have been caused by erosion.

SITE. The entire area of land on which the land disturbance activity is proposed in the site disturbance permit application.

EPSC PERMIT. A permit required by this chapter for land disturbance activities.

SITE PLAN. A plan or set of plans showing the details of any land disturbance activity of a site including but not limited to the construction of: structures, open and enclosed drainage facilities, stormwater management facilities, parking lots, driveways, curbs, pavements, sidewalks, bike paths, recreational facilities, ground covers, plantings, and landscaping.

2006 S-2

SLOPE. The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

SOIL. Naturally occurring surficial deposits overlying bedrock.

STRIPPING. Any activity which removes or significantly disturbs the vegetative surface cover including clearing, grubbing of stumps and root mat, and topsoil removal.

STRUCTURE. Anything manufactured, constructed or erected which is normally attached to or positioned on land, including buildings, portable structures, earthen structures, roads, parking lots, and paved storage.

TOPSOIL. The upper layer of soil.

UTILITY. The owner/operator of any underground facility including an underground line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, potable water, stormwater, steam, sewage and other similar substances.

WATERCOURSE. Any natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, or wash in which waters flow either continuously or intermittently.

WATERSHED. A region draining to a specific river, river system, or body of water.

WETLANDS. A lowland area such as a marsh, that is saturated with moisture, as defined in Sec. 404, Federal Water Pollution Control Act Amendments of 1987.
(Ord. 7, 2005, passed 6-27-05)

§ 53.04 PERMITS.

(A) *Land disturbance activity.*

(1) New construction that requires the disturbance of soil on lots of 5,000 square feet or greater is subject to the provisions of this chapter and shall not take place without an authorized EPSC permit.

(2) Additional construction that requires the disturbance of 5,000 square feet or more of soil that is not associated with new home construction is subject to the provisions of this chapter and shall not take place without an authorized EPSC permit.

(3) Land disturbance activity of less than 5,000 square feet or land disturbance activity on lots less than 5,000 square feet, which the activity is located in or near a sensitive area is subject to the provisions of this chapter and shall not take place without an authorized EPSC permit.

2006 S-2

(B) *Exemptions.* The following activities are exempt from the requirement to obtain an EPSC Permit and from the procedures of this chapter:

- (1) Cemetery graves.
- (2) Emergencies posing an immediate danger to life or property, substantial flood or fire hazards.
- (3) Land disturbance activity on lots less than 5,000 square feet, which is not located in or near a sensitive area.
- (4) Land disturbance activity less than 5,000 square feet that is not associated with new home construction, which is not located in or near a sensitive area.
- (5) Agricultural operations required to adopt and implement an individual agriculture water quality plan pursuant to the requirements set forth in the Kentucky Agriculture Water Quality Act (KRS Ch. 224).
- (6) Usual and customary site investigations, such as geotechnical explorations, clearing for surveying work, monitoring wells and archaeological explorations, which are undertaken prior to submittal of an application for preliminary subdivision plat.

(C) *Not exclusive.* The issuing authority may, on a project-by-project basis, exempt other land disturbance activities not specifically identified in the division (B) above.

(D) *Not exempt.* Land disturbance activity less than 5,000 square feet on individual lots or parcels that are part of a larger common plan of development that disturbs 5,000 square feet or more of soil is not exempt from this chapter and EPSC Permit. In this situation, the landowner and/or developer of the larger development, and the individual lot owner or homebuilder, will be issued an EPSC permit and will be responsible for complying with the provisions of this chapter. The landowner and/or developer of the larger development will remain dually responsible until 80% sold-out of lots within the development is reached.

(E) *EPSC permit application and form.*

(1) A written application from the landowner and/or developer of the site, or his/her authorized representative, in the form prescribed by this chapter, shall be required for each EPSC permit. The fees to be paid by the applicant for said permit shall be determined by the issuing authority. A licensed engineer shall prepare the EPSC Plan. The issuing authority may waive the preparation or approval and signature by the licensed engineer when it is self-evident that the work is simple, clearly shown, and entails no hazard or nuisance potential to adjacent property or watercourse, and does not include the placement of fill upon which a structure may be erected.

2006 S-2

(2) Permit application form. The following information is required on the application:

(a) Name, address, and telephone number of landowner/developer.

(b) Name, address, and telephone number of applicant, if different than landowner/developer.

(c) Name(s), address(es), and telephone number(s) of any and all contractors, subcontractors or persons actually doing the land disturbing or land filling activities and their respective tasks.

(d) Name, address, and telephone number of the person responsible for the preparation of the final plat and site drawings (roadways, grading and drainage, utilities, and the like).

(e) Name, address, and telephone number of the person responsible for the preparation of the EPSC Plan.

(f) Address of site.

(g) Date of the application.

(h) Signature(s) of the landowner(s)/developer(s) of the site or an authorized representative.

(i) The information required for this application may be modified as needed by the issuing authority.

(F) *Fiscal surety.*

(1) The Permittee shall be responsible for the installation, good repair, maintenance and ultimate removal of all temporary and permanent EPSC measures.

(2) The issuing authority may require the Permittee to post a fiscal surety, consisting of a bond, certified check, performance guarantee or other instrument, acceptable to and approved by the issuing authority. Fiscal surety for single-family developments may be exempt as determined by the issuing authority. When a fiscal surety is required, the surety shall be posted prior to the issuance of an EPSC Permit.

(3) The fiscal surety shall be in the amount equal to 125% of the estimated cost of the EPSC measures, as approved by the issuing authority. Whenever feasible, fiscal surety for the EPSC measures may be combined with and posted with other appropriate security instruments, such as those required for final plat approval (Article 6.9.2 of the Subdivision Regulations) or other building approvals.

(4) Following the period allowed to the Permittee to complete the installation of the EPSC

measures, the issuing authority finds the required temporary or permanent improvements or control

2006 S-2

measures have not been installed or maintained properly or are not in good repair or functioning properly, then the issuing authority may declare the Permittee to be in default if it does not appear that the improvements or controls will be completed or repaired within a reasonable time. Upon declaration of default, the issuing authority shall demand such amounts from the surety as required to remedy the default.

(5) Request for release of surety may be made after the issuing authority makes an inspection of the property and determines that site construction is finished; final stabilization has been established; the required improvements and controls are properly installed and temporary controls have been removed.

(G) *General permit.* Complying with the provisions of this chapter and issued EPSC permit does not exempt the Permittee from obtaining coverage from the Kentucky Pollution Division of Water under the KPDES storm water general permit for storm discharges related to construction activities that disturb one acre or more. The Permittee shall provide a copy of the Notice of Intent filed with the Kentucky Division of Water to the issuing authority.

(H) *Relation to other laws.* Neither this chapter nor any administrative decision made under it exempts the Permittee or any other person from procuring other required local, state, or federal permits or complying with the requirements and conditions of such other permit(s), or limits the right of any person to maintain, at any time, any appropriate action, at law or in equity, for relief or damages against the Permittee or any other person arising from the activity regulated by this chapter. (Ord. 7, 2005, passed 6-27-05)

§ 53.05 REVIEW AND APPROVAL.

(A) The issuing authority will review each application for a EPSC permit to determine its conformance with the provisions of this chapter. Within 30 calendar days after receiving a complete application and EPSC plan, the issuing authority shall, in writing:

(1) Approve the application and EPSC plan and issue the EPSC permit;

(2) Approve the application and EPSC plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this chapter, and issue the EPSC permit subject to these conditions; or

(3) Disapprove the permit application and EPSC plan, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(B) Failure of the issuing authority to act on an original or revised application within 30 calendar days of receipt shall authorize the applicant to proceed in accordance with the EPSC plans filed and this

2006 S-2

chapter, provided all other local, state and federal permits have been obtained, unless such time is extended by agreement between the applicant and issuing authority. Pending preparation and approval of a revised EPSC plan, development activities shall be allowed to proceed in accordance with conditions established by the issuing authority. The time period for the issuing authority to review the application shall start anew with each resubmittal.
(Ord. 7, 2005, passed 6-27-05)

§ 53.06 EROSION PROTECTION AND SEDIMENT CONTROL PLAN.

(A) Land disturbance activities, which involve the disturbance of soil on:

- (1) A lot less than 5,000 square feet where such lot is located in or near a sensitive area;
- (2) A land disturbance activity of less than 5,000 square feet where such activity is located in or near a sensitive area;
- (3) Lots of 5,000 square feet or greater;
- (4) A land disturbance activity of 5,000 square feet or more, require an EPSC Plan approved by the issuing authority. These plans shall be prepared by a licensed professional engineer, drawn to an appropriate scale and shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and measures proposed to minimize soil erosion and off-site sedimentation. The owner/developer/contractor shall perform all clearing, grading, drainage, construction, and development in strict accordance with the approved plan and this chapter.

(B) The EPSC Plan shall include the following:

- (1) A letter of transmittal, which includes a project narrative.
- (2) An attached vicinity map showing the location of the site in relationship to the surrounding area's watercourses, water bodies, sinkholes and other significant geographic features, and roads and other significant structures.
- (3) An indication of the scale used.
- (4) The name, address, and telephone number of the owner and/or developer and the contractor of the property where the land disturbing activity is proposed.
- (5) Ground contours, minimum two feet intervals, for the existing and proposed topography.

2006 S-2

(6) The proposed grading or land disturbance activity including: the surface area involved, excess spoil material, use of borrow material, and specific limits of disturbance.

(7) A clear and definite delineation of any areas of vegetation or trees to be saved.

(8) A clear and definite delineation of any wetlands, sinkholes, natural or artificial water storage detention areas, and drainage ditches on the site.

(9) A clear and definite delineation of any 100-year floodplain on or near the site.

(10) Storm drainage system, including quantities of flow and site conditions around all points of surface water discharge from the site.

(11) Standard details for storm water facilities and EPSC measures.

(12) Erosion and sediment control provisions to minimize on-site erosion and prevent off-site sedimentation, including provisions to preserve topsoil and limit disturbance.

(13) Design details for both temporary and permanent erosion control structures.

(14) Details of temporary and permanent stabilization measures.

(15) A chronological construction schedule and time frame including, as a minimum, the following construction activities:

- (a) Clearing and grubbing.
- (b) Construction of erosion control devices.
- (c) Installation of permanent and temporary stabilization measures.
- (d) Grading.
- (e) Utility installation.
- (f) Building, parking lot, and site construction.
- (g) Final grading, landscaping or stabilization.
- (h) Implementation and maintenance of final erosion control structures.
- (i) Removal of temporary erosion control devices.

2006 S-2

(16) A signed statement on the plan by the owner, developer, and contractor that any clearing, grading, construction, or development, or all of these, will be done pursuant to the approved EPSC plan and this chapter.

(C) The applicant may propose the use of any erosion protection and sediment control techniques in a Final EPSC Plan, provided such techniques are proven to be as or more effective than the equivalent best management practices as contained in the EPSC Design Manual and Standards.

(D) A site development construction project shall be considered in conformance with this chapter if soils have been prevented from being deposited onto adjacent properties, rights-of-ways, public storm drainage system, or wetland or watercourse.

(Ord. 7, 2005, passed 6-27-05)

§ 53.07 DESIGN REQUIREMENTS.

(A) The design, testing, installation, and maintenance of erosion protection and sediment control operations and facilities shall adhere to the criteria, standards and specifications as set forth in the most recent version of the EPSC Design Manual and Standards, as adopted by the city.

(B) At a minimum, the following requirements shall be met:

(1) Cut and fill slopes shall be no greater than 2H:1V, unless approved by the issuing authority.

(2) Clearing and grading, except that necessary to establish sediment control devices, shall not commence until sediment control devices have been installed.

(3) Erosion control methods shall include the following:

(a) Phasing of clearing and grading operations for all sites greater than 30 acres;

(b) Soil stabilization by seeding/mulching within 15 days of mass grading operations for borrow (excavation) and fill areas;

(c) Stabilizing soil stockpiles at the end of each workday; and

(d) Installing diversion ditches or other techniques where upland runoff occurs past disturbed areas.

(4) Sediment control methods shall include installing retention facilities, sedimentation basins and traps, other similar facilities at the most downstream runoff location within the site.

2006 S-2

(5) Waterway (creeks, ditches, and the like) protection shall include the installation of a temporary stream crossing, on-site storm water drainage system and stabilized outlets at all pipes, where applicable.

(6) Prevention of mud and debris onto public roadways by construction equipment and vehicles shall include the installation of crushed stone construction entrances or an on-site tire washing station at the point of ingress and egress to the public roadway.

(7) Maintenance schedule during and after construction of graded surfaces, EPSC facilities, and drainage structures.

(Ord. 7, 2005, passed 6-27-05)

§ 53.08 INSPECTION.

(A) The issuing authority or its duly authorized representatives shall make inspections of land disturbing activities subject to this chapter. Inspections may be provided by officers and staff of the Planning and Building Codes Department; Sewer Department; Public Works Department; or any other city agency deemed necessary.

(B) To ensure compliance with the approved EPSC Plan and to examine field practices to determine if control measures are adequate, authorized inspectors of the issuing authority shall have the power to inspect any land disturbing activity and to review the records of all inspections, repairs and modifications made by the permittee.

(C) Prior to commencing construction activities the permittee shall attend a pre-construction conference if scheduled by the issuing authority. The Technical Review Team meeting for the development may serve as a substitute for the pre-construction conference.

(D) The permittee shall notify the issuing authority 24 hours in advance of conducting inspections.

(1) At a minimum, the permittee shall conduct a self-inspection at the following stages:

- (a) Completion of perimeter erosion and sediment controls.
- (b) Completion of clearing and grading.
- (c) Installation of temporary erosion controls.
- (d) Completion of final grading and ground stabilization.
- (e) Prior to the fiscal security release.

2006 S-2

(f) Monthly after areas have been temporarily or permanently stabilized.

(g) Within 24 hours of a rain event 0.5 inches or greater.

(2) The issuing authority may increase or decrease the number of required inspections as deemed necessary to ensure an effective EPSC Plan and shall have the right to enter the property of the permittee without notice.

(E) The permittee shall prepare an inspection report after each self-inspection and shall keep copies at the job site at all times, and may be required to fax the inspection report to the issuing authority, if deemed necessary. At a minimum the inspection report shall include the date, time of day, name of the person conducting the inspection, company represented, scope of the inspection, major observations relating to the EPSC Plan and BMPs installed, and subsequent changes. The issuing authority has the right to make regular inspections to ensure the validity of the inspection reports.

(F) The permittee shall be self-policing and shall correct or remedy any EPSC measures that are not effective or functioning properly at all times during the various phases of construction.
(Ord. 7, 2005, passed 6-27-05)

§ 53.09 ENFORCEMENT.

(A) The issuing authority shall be responsible for the enforcement of this chapter. A stop-work order may be posted for the entire project or any specified part thereof if any of the following conditions exist:

(1) Any land disturbance activity regulated under this chapter is being undertaken without a permit.

(2) The Erosion and Sediment Control Plan is not being fully implemented.

(3) Any of the conditions of the EPSC permit are not being met.

(B) For the purposes of this section, a stop-work order is validly posted by posting a copy of the stop-work order on the site of the land disturbing activity in reasonable proximity to a location where the land disturbing activity is taking place. Additionally, a copy of the order, in the case of work for which there is an EPSC Permit, shall be mailed by first class mail, postage pre-paid, to the address listed by the Permittee on the permit. In the case of work for which there is no permit, a copy of the order shall be mailed to the person listed as the landowner of the property.

(C) If the permittee does not cease the activity or comply with the Erosion and Sediment Control Plan or EPSC permit conditions within five calendar days, the issuing authority may revoke the permit.

2006 S-2

(D) If the landowner or developer where no EPSC Permit has been issued does not cease the land disturbance activity, the issuing authority may request the City Attorney to seek to obtain injunctive relief.

(E) The issuing authority may retract the revocation if the EPSC Plan and permit is brought into compliance with this chapter.

(F) Ten calendar days after posting a stop-work order, the issuing authority may issue a notice of intent to the Permittee, landowner, or land user of the issuing authority's intent to perform work necessary to comply with this chapter. The issuing authority may go on the land and commence work after 14 days from issuing the notice of intent. The costs incurred by the issuing authority to perform this work shall be paid by the landowner or permittee out of the fiscal security referred to in this chapter, to the extent that the amount is covered thereby, with the remainder being directly due and owed by the landowner or Permittee. In the event no EPSC permit was issued or no bond was posted, the cost, plus interest at the rate authorized by the issuing authority, plus a reasonable administrative and attorneys fee shall be billed to the owner.

(G) Compliance with the provisions of this chapter may also be enforced by injunction.

(H) The issuing authority is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately, the issuing authority is authorized to enter onto private or public property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the issuing authority shall be fully reimbursed by the property owner and/or responsible party.

(Ord. 7, 2005, passed 6-27-05)

§ 53.99 PENALTY.

(A) Any person, firm, corporation or agency acting as principal, agent, employee or otherwise, who fails to comply with the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than \$100 and not more than \$500, or by imprisonment for not more than 90 days, or both, for each separate offense. Each day there is a violation of any part of this chapter shall constitute a separate offense.

(B) Should the issuing authority or city take legal action to enforce the provisions of this chapter, the issuing authority or city shall be entitled to collect any and all costs in instituting and taking such legal action, including but not limited to its court costs and attorney's fees.

(Ord. 7, 2005, passed 6-27-05)

2006 S-2

CHAPTER 54: ILLICIT DISCHARGE CONTROLS

Section

- 54.01 Authority
- 54.02 Purpose and scope
- 54.03 Definitions
- 54.04 Standards
- 54.05 Prohibition of discharges
- 54.06 Rules and regulations
- 54.07 Inspection and monitoring
- 54.08 Enforcement

- 54.99 Penalty

§ 54.01 AUTHORITY.

(A) This chapter is adopted pursuant to the powers granted and limitations imposed by Kentucky laws, including the statutory authority granted to Kentucky cities in KRS Chapters 67 and 100.

(B) This chapter is adopted pursuant to the powers granted and limitations imposed by the Federal Clean Water Act, and in particular those parts that authorize local governments to require any state or federal department or agency to comply with all local water pollution control requirements.
(Ord. 8, 2005, passed 6-27-05)

§ 54.02 PURPOSE AND SCOPE.

The regulations set forth in this chapter are intended to protect the general health, safety, and welfare of the citizens of Frankfort, and more specifically:

(A) To protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act by prohibiting non-storm water discharges, including pollutants contained in storm water discharges, to the municipal separate storm sewer system (MS4), community waters and waters of the Commonwealth, collectively called storm water conveyance system;

(B) To prohibit illicit discharges and connections to the MS4;

(C) To regulate the contribution of pollutants to storm water discharges to the MS4 by any user;

(D) To comply with all applicable state and federal requirements for clean water, including limitations on the discharge of pollutants as set forth by the Kentucky Pollutant Discharge Elimination System (KPDES); and all applicable provisions of the Federal National Pollution Discharge Elimination System's storm water general permit for Phase II communities; and

(E) To establish legal authority to carry out all inspection, surveillance and monitoring, and enforcement procedures necessary to ensure compliance with this chapter.
(Ord. 8, 2005, passed 6-27-05)

§ 54.03 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning stated below:

COMMUNITY WATERS. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the city.

DEVELOPER. Any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity.

EPSC (EROSION PROTECTION AND SEDIMENT CONTROL). The prevention of soil erosion and control of solid material during land disturbing activity to prevent its transport out of the disturbed area by means of air, water, gravity, or ice.

ENFORCEMENT AGENCY. The City of Frankfort Public Works Director or City of Frankfort Planning and Building Codes Director, and their duly authorized designees designated to enforce this chapter.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, biological or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-storm water substance, pollutant or hazardous material disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means, intentionally or unintentionally, into the MS4, community waters, waters of the Commonwealth, or any area draining directly or indirectly into the MS4, except as exempted in § 54.05.

2006 S-2

ILLICIT CONNECTION. Defined as any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4. Included are conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved.

INSPECTOR. A person designated by the enforcement agency who has attended a Frankfort-sponsored or approved training course in detection of illicit discharges.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) OF THE CITY. A conveyance, or system of conveyances (including roads with drainage systems, municipal and county streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains) designed or used for collecting or conveying stormwater. Sanitary and combined sewers are not included in the definition of the municipal separate storm sewer system.

NON-STORM WATER DISCHARGE. Any discharge to the MS4, community waters or waters of the Commonwealth that is not composed solely of storm water except as permitted by § 54.05.

PERSON. Any individual or entity.

PLANNING AND BUILDING CODES DIRECTOR. The City of Frankfort Planning and Building Codes Director.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes, wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PUBLIC WORKS DIRECTOR. The City of Frankfort Public Works Department Director and City Engineer.

PREMISES. The area of land, site, grounds, property from which the illegal discharge emanates.

UTILITY. The owner/operator of any underground or overhead line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, potable water, stormwater, steam, sewage and other similar substances.

WATERS OF THE COMMONWEALTH. Any surface or subsurface watercourses and water bodies including all natural waterways and definite channels and depressions in the earth that may carry

2006 S-2

water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

WATERCOURSE. Any natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, or wash in which waters flow either continuously or intermittently.

WATERSHED. A region draining to a specific river, river system, or body of water.

WETLANDS. A lowland area such as a marsh, that is saturated with moisture, as defined in Sec. 404, Federal Water Pollution Control Act Amendments of 1987.
(Ord. 8, 2005, passed 6-27-05)

§ 54.04 STANDARDS.

(A) Except as herein provided or exempted by the enforcement agency, this chapter shall apply to all non-storm water discharges and connections to the MS4, community waters and waters of the Commonwealth forming a part of the boundaries of the city.

(B) The enforcement agency shall administer, implement, and enforce the provisions of this chapter.

(C) The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not effect the other provisions of this chapter.

(D) This chapter shall be construed to insure consistency with requirements of the Clean Water Act, the KPDES, and acts amendatory thereof or any other applicable regulations.

(E) The standards and requirements set forth herein and promulgated pursuant to this chapter are minimum standards. This chapter does not intend nor imply that compliance by any person, company, developer, or any other entity will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into the MS4, community waters or waters of the Commonwealth.
(Ord. 8, 2005, passed 6-27-05)

§ 54.05 PROHIBITION OF DISCHARGES.

(A) No person, company, developer or any other entity shall discharge or cause to be discharged into the MS4, community waters or waters of the Commonwealth any pollutants or hazardous substances, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards. The commencement, conduct or continuance of any illegal discharge is prohibited.

2006 S-2

(B) Unless the enforcement agency has identified them as a source of contaminants, the following categories of discharges are permitted:

- (1) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the Fire Code requires to be contained and treated prior to discharge;
- (2) A discharge or flow from lawn watering, or landscape irrigation;
- (3) A discharge or flow from a diverted stream flow or natural spring;
- (4) Uncontaminated discharge or flow from a foundation drain, crawl space pump or footing drain;
- (5) A discharge or flow from air conditioning condensation;
- (6) A discharge or flow from individual residential car washing;
- (7) A discharge or flow from a riparian habitat or wetland;
- (8) A discharge or flow water used in street washing or cosmetic cleaning that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
- (9) Drainage from a private residential swimming pool containing no harmful quantities of chlorine or other chemicals;
- (10) A discharge or flow from any other water source not containing pollutants; and
- (11) Upon verbal notification to the enforcement agency and prior to time of the test, dye testing is an allowable discharge.

(C) No discharge or flow available under division (B) is allowed if the discharge or flow in question has been determined by the enforcement agency to be a source of a pollutant or pollutants to the MS4, community waters or waters of the Commonwealth. Written notice of such determination shall be provided by the enforcement agency to the discharger.

(D) The prohibition of discharges or flows shall not apply to any non-storm water discharges permitted under a KPDES or NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the Kentucky Division of Water under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

2006 S-2

(E) Any person, company, developer or any other entity subject to a construction activity NPDES storm water discharge permit and Erosion Protection and Sediment Control Permit shall comply with all provisions of such permits. Proof of compliance with such permits may be required in a form acceptable to the enforcement agency.

(F) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition includes without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practice applicable at the time of connection.

(G) No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon public or private property, driveway, parking area, street, alley, sidewalk, component of the MS4, community waters or waters of the Commonwealth, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.
(Ord. 8, 2005, passed 6-27-05)

§ 54.06 RULES AND REGULATIONS.

(A) *Eliminate illegal discharges.* Notwithstanding the requirements of § 54.07, the enforcement agency may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

(B) *Remediate.* Whenever the enforcement agency finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of storm water entering the MS4, community waters, or waters of the Commonwealth, the enforcement agency may require by written notice to the owner of the premises and/or the responsible person that the pollution be remediated and the affected property restored within a specified time.

(C) *Monitor and analyze.* The enforcement agency may require any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution, illegal discharges, and/or non-storm water discharges to the MS4, community waters, or waters of the Commonwealth system, to undertake at said person's expense such monitoring and analyses and furnish such reports to the enforcement agency as deemed necessary to determine compliance with this chapter.

(D) *Notification of spills.* Notwithstanding other requirements of local, state and federal law, as soon as any person responsible for a dwelling, development, facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of pollutants or hazardous materials which are resulting or may result in illegal discharges to the MS4,

2006 S-2

community waters or waters of the Commonwealth from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the enforcement agency in person or by phone or facsimile no later than 9:00 a.m. of the next business day. Notifications shall be confirmed by written notice addressed and mailed to the enforcement agency within three business days of the notice.

(Ord. 8, 2005, passed 6-27-05)

§ 54.07 INSPECTION AND MONITORING.

(A) *Inspection.* Whenever the enforcement agency has cause to believe that there exists, or potentially exists, any condition which constitutes a violation of this chapter, the enforcement agency may enter the MS4, community waters and waters of the Commonwealth at all reasonable times to inspect the same. If it is determined an illegal discharge emanates from private premises, the owner or operator of the premises will be notified in accordance with § 54.06 of this chapter. Copies of records of storm water compliance shall be provided to the enforcement agency.

(B) *Sampling devices and testing.* During any inspection as provided herein, the enforcement agency may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities. The cost of all testing may be passed on to the owner or operator of the premises from which the illegal discharge emanates.

(Ord. 8, 2005, passed 6-27-05)

§ 54.08 ENFORCEMENT.

(A) *Notice of violation.*

(1) Whenever the enforcement agency finds that a person, company, developer or any other entity has violated a prohibition or failed to meet a requirement of this chapter, the Director may order compliance by written notice of violation to the responsible entity. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;

(d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;

2006 S-2

(e) Payment of a fine to cover administrative and remediation costs of the enforcement agency; and

(f) The implementation of source control or treatment best management practices.

(2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the enforcement agency or a contractor designated by the Director and the expense thereof shall be charged to the violator.

(B) *Abatement by the city.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation then the enforcement agency or designated contractor may enter upon the subject private premises and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the enforcement agency or designated contractor to enter upon the premises for the purposes set forth above.

(C) *Charging cost of abatement/liens.*

(1) Within 30 days after abatement of the nuisance by the enforcement agency, the Director shall notify the property owner of the premises of the cost of abatement undertaken by the city, including but not limited to administrative costs, court costs and attorneys fees. The property owner may file a written protest objecting to the amount of the assessment with the City Clerk within 15 days. The Clerk shall set the matter for public hearing by the Board of Commissioners. The decision of the Commissioners shall be set forth by resolution and shall be final.

(2) If the amount due is not paid within ten days of the decision of the Board of Commissioners, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the Property Valuation Administrator so the amounts of the special assessment may be levied against the parcel of land.

(D) *Emergency abatement.* The enforcement agency is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the health, safety or well being of the public. If any such violation is not abated immediately as directed by the enforcement agency, the city is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party.

(E) *Injunctive relief.* The enforcement agency is authorized to request the City Attorney to seek injunctive relief and is entitled to recover its costs incurred in seeking injunctive relief, including court costs and attorney's fees.

2007 S-3

(F) *Acts potentially resulting in a violation of the Federal Clean Water Act.* Any person who violates any provision of this chapter or any provision of any permit issued by the city may also be in violation of the Clean Water Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability.

(Ord. 8, 2005, passed 6-27-05; Am. Ord. 1, 2006, passed 1-28-06)

§ 54.99 PENALTY.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. A violation of or failure to comply with any of the requirements of this chapter shall constitute a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than \$100 and not more than \$500 or by imprisonment for not more than 90 days, or both, for each separate offense. Each day there is a violation of any part of this chapter shall constitute a separate offense.

(Ord. 8, 2005, passed 6-27-05; Am. Ord. 1, 2006, passed 1-28-06)

CHAPTER 55: POST-CONSTRUCTION RUNOFF

Section

- 55.01 Authority
- 55.02 Purpose and scope
- 55.03 Definitions
- 55.04 Standards
- 55.05 Stormwater management measures

§ 55.01 AUTHORITY.

(A) This chapter is adopted pursuant to the powers granted and limitations imposed by Kentucky laws, including the statutory authority granted to Kentucky cities in KRS Chapters 67 and 100.

(B) This chapter is adopted pursuant to the powers granted and limitations imposed by the Federal Clean Water Act, and in particular those parts that authorize local governments to require any state or federal department or agency to comply with all local water pollution control requirements.
(Ord. 9, 2005, passed 6-27-05)

§ 55.02 PURPOSE AND SCOPE.

(A) The regulations set forth in this chapter are intended to protect the general health, safety, and welfare of the citizens of the city.

(B) The regulations set forth in this chapter are intended to protect and enhance the municipal separate storm sewer system (MS4), community waters and waters of the Commonwealth.

(C) The primary goal of this chapter and the Frankfort and Franklin County Phase II Stormwater Management Program is to maintain after development, as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding.

(D) These regulations for stormwater management apply to the development or redevelopment of land for residential, commercial, industrial, or institutional use, but do not apply to agricultural land management practices.
(Ord. 9, 2005, passed 6-27-05)

§ 55.03 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the definitions stated below.

APPROVING AGENCY. The City of Frankfort Public Works Director or City Planning and Building Codes Director and their duly authorized designees, responsible for review and approval of stormwater management plans.

BEST MANAGEMENT PRACTICES (BMP). A technique or series of techniques, structural or nonstructural, which are proven to be effective in controlling runoff, erosion, sedimentation and mitigate flooding.

DETENTION FACILITY. A temporary or permanent natural or man made structure that provides for the temporary storage of stormwater runoff which is designed so as not to create a permanent pool of water.

DEVELOPER. Any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in the development or redevelopment of property.

DRAINAGE AREA. That area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

EXTENDED DETENTION. A stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events.

FLOW ATTENUATION. Prolonging the flow time of runoff to reduce the peak discharge.

INFILTRATION. The passage or movement of water into the soil surface.

LAND DISTURBANCE ACTIVITY. Any land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or rights-of-way within the City of Frankfort, including but not limited to building demolition, clearing and grubbing, grading, excavating, transporting and filling of land.

PUBLIC WORKS DIRECTOR. The City of Frankfort Public Works Department Director and City Engineer.

REDEVELOPMENT. Any construction, alteration, or improvement involving land disturbance performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential.

2006 S-2

RETENTION FACILITY. A temporary or permanent natural or manmade structure that provides for the storage of storm water runoff by means of a permanent pool of water.

RETROFITTING. The construction of a structural BMP in a previously developed area, the modification of an existing structural BMP, or the implementation of a nonstructural practice to improve water quality over current conditions.

RUNOFF. Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT. Soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

SITE PLAN. A plan or set of plans showing the details of any land disturbance activity of a site including but not limited to the construction of structures, open and enclosed drainage facilities, stormwater management facilities, parking lots, driveways, curbs, pavements, sidewalks, bike paths, recreational facilities, ground covers, plantings, and landscaping.

STORMWATER DESIGN STANDARDS. The City of Frankfort's Stormwater Design Standards, latest version that serves as the official guide for stormwater design principle, methods and practices.

STORMWATER MANAGEMENT. For:

(1) Quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land, and

(2) Qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

WATERCOURSE. Any natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, or wash in which waters flow either continuously or intermittently.

WATERSHED. The total drainage area contributing runoff to a single point.

WETLANDS. A lowland area such as a marsh, that is saturated with moisture, as defined in Sec. 404, Federal Water Pollution Control Act Amendments of 1987.
(Ord. 9, 2005, passed 6-27-05)

§ 55.04 STANDARDS.

The Approving Agency is responsible for the implementation and supervision of the stormwater management program for the City of Frankfort. This responsibility shall include, but is not limited to:

2006 S-2

(A) Establishment of policies, procedures, standards, chapters, and criteria relating to stormwater management;

(B) Reviewing and modifying where applicable the existing subdivision regulations to address stormwater pollution and reduce watercourse erosion, siltation and sedimentation, and local flooding;

(C) Reviewing and modifying where applicable the existing zoning regulations to mitigate stormwater runoff problems through various zoning techniques for better site design;

(D) Reviewing and modifying as necessary the existing stormwater design standards to address stormwater pollution and reduce stream channel erosion, siltation and sedimentation;

(E) Creating a new chapter to address illicit discharges;

(F) Creating a new chapter to address erosion protection and sediment control from construction site runoff related to land disturbing activities; and

(G) Establishing erosion prevention and sediment requirements, design standards and training.
(Ord. 9, 2005, passed 6-27-05)

§ 55.05 STORMWATER MANAGEMENT MEASURES.

(A) The Approving Agency shall periodically evaluate stormwater management requirements and standards to be considered for implementation with new development and redevelopment projects. These requirements may include but not be limited to the following:

(1) Storm water control BMP's. To address runoff volume and rate, and pollutant removal efficiencies. These BMP's may include hydrodynamic separators, bioretention basins and infiltration trenches and drainfields.

(2) Stream corridor protection. To protect designated streams through conservation methods. These methods may include buffer strips, greenways, vegetated channels, and streambank stabilization and restoration.

(3) Impervious area runoff controls. To address high levels of runoff quantity and quality associated with high-density developments.

(4) Discharge control BMP's. To provide flow attenuation for post-development runoff. These BMP's may include detention and retention facilities, extended dry ponds and artificial wetlands.

2006 S-2

(B) The approving agency may require on a project by project basis the design and implementation of any of the aforementioned stormwater management measures for any new development or redevelopment project, including retrofitting. These stormwater management measures shall be approved by the approving agency and shall become part of the development site plans for the project. This obligation does not relieve the developer from complying with the storm water design standards, zoning regulations, subdivision regulations or any other regulations.
(Ord. 9, 2005, passed 6-27-05)

2006 S-2

